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THE QUEST FOR ORDER AMONG AWLAD ALI OF THE WESTERN DESERT OF EGYPT

By

Safia K. Mohsen

A THESIS

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ABSTRACT

THE QUEST FOR ORDER AMONG AWLAD ALI OF THE WESTERN DESERT OF EGYPT

By

Safia K. Mohsen

121 128 [671] The study deals with the ways in which disputes are settled within a tribal society with no contralized authority. One way these disputes are settled is through the application of a set of formal rules known as "the daraieb" or the tribal ways. These rules are kept in force through an elaborate, yet informal, judicial process in which the local political leaders play a key role.

The main focus of the study is not the rules themselves, but rather the ways they are implemented. More specifically, the study examines the ways in which judicial reasoning is related to certain realities of the social and political life of the group. Using mainly the case-study method, this relationship is examined.

The first part of the thesis provides an account of the historical and ecological features of the groups total context of action. This is followed by a rather detailed analysis of the tribal organization of the group. In dealing with the tribal organization two modes of analysis are employed. A structural form of analysis which focuses on the hierarchy of groups and subgroups by which the tribal members order themselves; and a description of these groups in terms of the processes through which they are maintained. In this context, special

[Introductory, P. V]

121 attention is paid to the nature of political leadership; the domains
128 within which the leaders function, the bases of their political support and how all these are related to their role in dispute settlement.

Through the analysis of cases some of the salient features of the process of judicial reasoning are examined in the remaining part of the thesis. Distinction is made here between cases involving personal injuries and those arising from contractual relationships.

Finally, a concluding chapter summarizes the main findings of the study.

[Introductory, P. Vi]
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ACKNOWLEDGEMENTS

000 Rarely, if ever, is a thesis the work of one person. The present thesis is no exception. Many individuals and institutions have contributed time, effort, and funds toward its completion. Not all can be mentioned here, but I do hope that those omitted will know how deeply indebted I am to them.

My profound thanks are due to my doctoral committee whose composition has changed considerably from the beginning of the original research design until the completion of the thesis, and yet, all members of which allowed me a continuity of my basic orientation. They were Professors Marc Swartz, Charles Hughes and Leonard Kasdan, who, in that order, acted as Chairman, and Professors Bernard Gallin and Iwa Ishino, who acted as members of the committee.

While in the field, my task was made much easier by the patience-hospitality and cooperation extended to me by all members of Awlad Ali without whose help the study would not have been possible. To all of them I extend my apology if unintentionally I misinterpreted their culture.

Finally, my thanks to Professor Ahmad Abu-Zeid of the University of Alexandria whose help, comments and friendship made the field work a totally new and worthwhile experience.

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Chapter I

THEORETICAL BACKGROUND

The Comparative Studies of Law

This study is based on field work carried out among Awlad Ali, of the Western Desert of Egypt, between August 1965 and August 1966. The study deals with the processes by which order is maintained within a tribal society with no centralized authority. One way that order is maintained is through the application of a set of formal rules known to the people of the area as "the daraieb" or the tribal ways. These rules are kept in force by an elaborate, yet informal, judicial process in which the tribal political leaders play the most important part. 121 [114] 121 671

The main focus of the study is not the rules themselves but rather the ways in which they are implemented, or the judicial process. More specifically, the study deals with the ways in which the process of dispute settlement is related to certain realities of the social and political life of the group.

Concern with the legal systems of non-literate societies has been an interest of anthropologists since the classical monographs of the nineteenth century (Maine 1861, 1871; and Fustel de Coulanges 1864), directed the attention of anthropologists to the laws of ancient civilizations. Those monographs were followed at a later date by the work of anthropologists such as Malinowski (1926), Hogbin (1934), and Schapera (1938). In more recent years most anthropological work on legal systems has been done in Africa. Most notable among these are Gluckman's treatise on the Barotse of Northern Rhodesia (1955, 1963), Bohannan's account of the Tiv of Nigeria (1957), and Howell on the Nuer Law (1954). Other studies of primitive law 121 114 671

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in other parts of the world include Llewellyn and Hoebel on the Cheyenne (1941), Pospisil's analysis of the Kapauku Papuan la (Pospisil 1958), Smith and Roberts' description of the Zuni law (1954) and Laura Nader's work on Zapotec law.

Despite this interest in the comparative study of legal institution among anthropologists, yet the fields of legal anthropology still lacks a coherent body of theory to bear upon the analysis of the institutions described. The theoretical questions represented in most of these writings seem to center around two main problems: the problem of definition, and that of methodology. With regard to the problem of definitions the various writers seem to be influenced by one or the other of two main schools of jurisprudence: the analytical school and the sociological school. The analytical school flourished in the late nineteenth century following the writings of its leader, John Austin, the British jurist. According to the analytical school law is a set of rules imposed upon society by a sovereign will. The picture is that of a supreme authority standing high above society and issuing its command downwards. This supreme authority is the creator and the ultimate source of law. These views are exemplified in Austin's famous definition of law as "a rule laid down for the guidance of an intelligent being by an intelligent being having the power over him" (1885: 316-7). Since the will of that political superior has to be exact, the only way to express it, according to Austin, is by means of legislation. According to the views of this school, the existence of a supreme authority is a prerequisite to the existence of law. Any social rules of observances existing before or without the issuing authority are not considered law. This excludes from being law rules which were not enacted such as the British common law, as well as all forms of primitive customary law.

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Later, members of the analytical school shifted the emphasis of their definition of law from its enactment by a supreme authority to its enforcement by that authority. Salmond defined law by reference to a court. Law, according to him, is "the body of principles recognized and applied by the state in the administration of justice" (1946:41). Gray, another member, went even further to deny the name, law, to a statute until it has been used as a basis of decision by the court (1921:82). Similarly, Diamond, who has contributed to the study and appreciation of 'primitive' law, hardly goes beyond arguing that societies without courts have no laws (Diamond 1935).

The influence of the analytical school on the anthropological writings on law is reflected in two ways. In the first place, it led some writers to maintain that since primitive societies lacked a supreme authority in the Austinian sense, they had no rules that may be called 'legal' and that among these societies "custom is the King" (Seagel 1941:iii). In the second place, the concept of the court as stated by members of the analytical school seems to influence to a greater or lesser degree the definition of law by many anthropologists, a point which will be discussed later in the chapter.

The sociological school of jurisprudence came as a reaction against limitations inherent in the analytical school with its glorification of the supreme will. According to the views of this school, law develops within society of its own vitality. It is not an artificial creation of a supreme will but is spontaneous and independent of any formal authority. These views do not exclude the notion of enforcement of law by a supreme authority which becomes necessary as the society reaches a certain level of complexity, but unlike the analytical school, the supreme authority in the latter case is not the creator of law but a creation of it.

The movement was led by Von Saveigny, the French jurist who viewed law as a rule existing for the purpose of regulating the actions of the

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individual in the interest of the whole community (1937). He regarded law as one of the many factors of the morphology of society. Roscoe Pound continued that tradition in his famous article, "The Scope and Purpose of Sociological Jurisprudence" (1910-11), in which he viewed law as "one side of the process of social control...a task or great series of tasks of social engineering." The purpose of law, according to Pound, is to eliminate friction and waste in the satisfaction of the human needs (1910-11;591-619).

To turn from jurists to anthropologists, we find the list of those who subscribe to the sociological view quite extensive. To try to enumerate them would be a very lengthy endeavor. Malinowski states that law and order arise out of the very process which they govern. He sees laws as existing in all human societies and attributes the failure of the analytical jurists to perceive the existence of legal systems among primitive societies to the faulty habit of identifying the legal system with the person or organ possessing the power to make laws and enforce them. He defined law as a body of binding obligations, regarded as a right by one party and acknowledged as a duty by the other, kept in force by a special mechanism of reciprocity and publicity inherent in the structure of their society" (1926:58). Radcliffe-Brown (1933), Lewellyn and Hoebel (1941), Hoebel (1961), Bohannan (1957) and Gluckman (1955, 1965) to give examples, all view law as an aspect of the society independent of any sovereign in the Austinian sense. This does not mean that they all agree in their definition of law. For they exhibit a considerable difference in their views. The difference, however, does not stem from their view of the sociological rather than the formal nature of law, but in their attempt to separate law from other aspects of social life of the group.

The main difficulty with the sociological view of law is that it does not provide a reliable criteria by which one can differentiate between that aspect of the social life that one may call law and other aspects. This does not pose any problem for those who use the concept of law in a very wide and general sense to man "the totality of people's culture" (Hartland 1924:191). But for later writers, who tend to take a more or less restricted view of law, the problem was there. Malinowski states that the rules of law in primitive society stand out from other social norms in that they are felt and regarded as "obligation of one party and the rightful claim of another." This, of course, gives law a very broad definition and does not really help in distinguishing law from non-law. 121 114 671

One of the most commonly used criterion is that of a "sanction" behind the legal norms. But the mere fact that legal norms have sanctions behind them does not help in drawing the line between them and other norms since all norms are backed by sanctions of some kind or another. It is the kind of sanction, then, not just any sanction, that differentiates law from non-law. In other words, there are classes of sanctions that may be called "legal sanctions." For Malinowski, the loss of reciprocal relations in primitive society constituted the sufficient basis for the legal sanctions (1934). Allen (1958) maintained that legal sanctions are "completely compulsory." "No one is under an absolute compulsion to visit the barber or to wear garments " (1958:59), while, on the other hand, members of the society are under an absolute compulsion not to steal or take the life of another person. Like Malinowski's notion of the loss of reciprocal relations, Allen's concept of "absoluteness" as the basis of legal sanctions is not adequate. For even under the modern legal system, were the penalty for stealing or murder specific and clear, the individual is not under an "absolute" compulsion not to steal or kill. He still can, and the mere existence of the penal institution in modern societies is a living proof that many do violate the legal norms if they are willing to take the risk of such violation, the same risk the person takes who violates the norm 121 114 671 681 of modesty and walks naked in the streets. Some may even find it easier to accept the risk of penalty for stealing than the social sanctions for violating the norms of modesty. 121 114 671 681

But although the notion of absolute vs. relative compulsion is arbitrary and artificial as a criterion for defining legal rules, yet Allen is close to another related and widespread criterion of legal sanctions, that is, the idea of the "use of force." Hoebel maintains that "the really fundamental sine qua non of law in any society - primitive or civilized - is the legitimate use of physical coercion.... The law has teeth, teeth that can bite if need be..." (1961a:26) Pound defines law as "social control through the systematic application of the forces of a politically organized society" (1910-11:591). This definition has later been adopted by Radcliffe-Brown (1940) who considers the obligations imposed upon the individual but for which there is no sanction backed by the use or the possibility of use of physical force as merely a matter of social conventions or custom but not law.

It is evident, then, that those who used the concept of "coercion" as the basis for their distinction of law needed a further specification of the concept. For, as Hoebel has noticed, "There are as many forms of coercion as there are forms of power...and only certain methods and forms are legal" (1961:26). He states that coercion by gangsters is not legal coercion; neither is the parents' physical coercion if it is extreme in form. The essential element in legal coercion according to Hoebel, is "the general social acceptance of the application of physical power, threat or, in fact, by a privileged party, for a legitimate cause, in a legitimate way, and at a legitimate time." The privilege of applying physical force constitutes, according to Hoebel, the official element ~~in law.~~ The person who is recognized as having the right to exercise force is the symbol of authority. This does not mean that he has to be an official or a holder 121 114 671 681 625

of any permanent office; it is any person who is exercising the legiti- 121
mate use of force. Simple as the above argument might seem, it really 114
offers very little in refining our conception of legal sanctions. For we 671
are still left with the question of how a person acquires the right to 681
exercise the physical force. What gives his action the legitimacy that 625
is otherwise lacking in other forms of coercion? In trying to deal with 121
this problem anthropologists resorted to a concept that is used by the 114
analytical jurists, that is, the court. There is a basic difference, how- 671
ever, between the anthropologists' view of the court and that of the ana- 692
lytical jurists. The latter see the court as the ultimate source of law: court creates the law. Anthropologists, on the other hand, tend to use the court as the source of law but as a criterion of its existence. An example of such views is Max Radin who maintained that the infallible test "for recognizing whether an imagined course of conduct is lawful or unlawful... is to submit the question to the judgment of a court" (1938:1145).

Anthropologists differed among themselves, however, on what constitutes 121
a court. While Radcliffe-Brown (1940) insists that it must be a body of 114
people acting on behalf of the community as a whole and therefore does not 671
exist in all societies, Hoebel (1961), on the other hand, extends the con- 692
cept to include the diffused public opinion or sentiment of the people in 626
a given society as a kind of court that gives legitimation to the use of 625
force by individuals or groups in the absence of a recognized body acting on behalf of the community. He sees a court in cases of self-help where the aggrieved party or his kinsmen carry on the procedures of redress without the intervention of a third party. He maintained that if the procedures are right, there will be "at least the compulsion of recognized 'legal' procedure, though the ultimate court may be the 'bar of public opinion'" (1961:25).

The concept of the court has been prominent in the writings of several 121
other anthropologists besides Radcliffe-Brown and Hoebel. Bohannan 114
(1957, 1964, 1965), Redfield (1964) and Pospisil (1958) all imply the 671
existence of a court of some kind or another as the identifying mark of 692
the existence of legal rules. In his attempt to distinguish between law and custom, Gluckman thought of law to exist "as a series of acceptable judgments of rightdoing and wrongdoing in particular cases" (1955:262). Custom and other social observances function as corpus juris and as such a basis for the judgment of where the behavior of one of the litigants in a case is reasonable or unreasonable, lawful or unlawful. As such, custom is a source of law, but not law itself. It becomes law when drawn upon in
passing judgment in a given case. In commenting on a passage on the Nuer 121
by Evans-Pritchard, Gluckman made it clear what he meant by the court. 114
"This passage shows that even in a society where 'self-help' is the en- 671
forcing sanction, people judge situations of dispute in terms of rights 626
and duties, and wrongs....Therefore, it seems fair to say that among the 692
Nuer, though they have no courts, there is a process of judgment by media- 171
tors and ordinary people in which custom and morality as part of the corpus juris constitute 'sources of law' for particular decisions" (1955a:263).

The importance of the above passage from Gluckman is his distinction 121
between the concept of the court and the judicial process, a distinction 114
lacking in the writing of most other anthropologists dealing with the 671
study of law. Failure to distinguish the two aspects of the legal system resulted in confusing a basic societal process with one of the mechanisms through which the goals of that process achieved in certain societies.
In its broadest sense, the judicial process refers to the ways disputes [692]
are settled within society. Since didsputes arise out of the very nature [626]
of social interaction, some form of dispute settlement is found in all [627]
societies.

The form which the process of dispute settlement takes differs from 121
one society to another. In certain societies disputes are settled through 627
a process of informal mediation undertaken by go-betweens; in others it 692
is by means of self-help; still in others, it is by way of court. In so- 695
cieties with courts the process of dispute settlements is undertaken by
judges who "take and assess the evidence, examine what they regard as the
facts, and come to a decision in favor of one party rather than another"
(Gluckman 1965:183).

Within a given society, disputes are settled in accordance with a set 121
of principles that reflect the basic goals and values of that society. As 627
long as the settlement of a particular dispute proceeds according to these 626
principles, the settlement is supported by the public opinion of that so- 671 692
ciety. This is true whether the process is carried on by means of informal 182
mediations or through a court system. It is this public opinion as the ex-
pression of the basic societal values and not the court as a special mechan-
ism that gives legitimation to the judicial decisions. To equate opinion [114]
with the court as Hoebel (1961) did, or to look at the court as the ultimate
source of legitimation as did Radcliffe-Brown (1940) and others (Redfield
1964, Bohannan 1965), is to create an unnecessary confusion which tends to
undermine meaningful cross-cultural comparisons. Whatever the differences 121
among anthropologists with regard to the definition of the court, their 127
main interest in the concept so far has been as a tool for the definition 671 114
of law. The interest in the concept gave rise to a methodological approach
which came to characterize the literature in legal anthropology, namely,
the case-study approach, cases having been utilized in a number of ways
by legal anthropologists. In their book on the Cheyenne, Llewellyn and
Hoebel (1941) introduced the analysis of "the trouble case." This was
followed by a number of studies utilizing the case study method either to

document statements concerning the substantive law of the society studied, 121
or to abstract and elucidate that law. An example of the first technique 127
is Howell's analysis of the Nuer court decisions (1954) where he collected 671
a large number of court cases, classified them and abstracted the substan- 114
tive aspect of the native law. Gluckman's study of the Lozi (1955) represents the second technique. Smith and Roberts used the same method of case analysis to abstract certain principles of the Zuni law (1954), and Nader utilized it in her study of the Zapotecan law (1964). The list of those who utilized the case-study approach is quite extensive, and the range of the societies they studied is quite varied. But most of them share the interest in the substantive rather than in the procedural aspect of the law.

When referring to the procedural aspect of the law one should keep 121
in mind the difference between the technical and the abstract components 671
of procedural law. The first refers to the activities and steps involved [627]
in the settlement of disputes in the society as well as the person or body [692]
undertaking the responsibility of such settlement. The second involves a 121
number of abstract principles reflecting the values of the society with re- 181
gard to the goals of the judicial process, and which the judicial persons 671
use as a guide in achieving a settlement or in passing a judgment of one 114
kind or another. These are the bases of judicial reasoning. Although judicial reasoning represents one of the most interesting and important aspects of the judicial process, it attracted very little attention among legal anthropologists. With the exception of Gluckman and his analysis of the concept of "reasonable man" among the Lozi (1955a), no significant work has been done in this area. In dealing with the concept of the reasonable man, Gluckman was more interested in discovering universals in laws than in the process of judicial reasoning as such. He implied that an

element of reasonableness is a universal principle in any judicial logic. 121
Nadel reacts to Gluckman's implication of the universality of the concept 181
suggesting that it is valid only in certain contexts, and that the cases 671
reported by Gluckman from which he abstracted that concept are minor ones. 114
Nadel maintained that the principle seems inadequate in major crimes such as homicide, witchcraft or assault. "If I am right, the Lozi would, in these situations, discard their guiding fiction of 'reasonable man' for the sharper dichotomy of things simply lawful and unlawful, permitted and forbidden" (1956:162).

METHODOLOGY

One of the characteristics of legal anthropology is the absence of a 121
coherent body of theory that could be utilized in the analysis and inter- 124
pretation of the ethnographic data. What do exist, however, in the area of the ethnography of law are a variety of what may be called "tools of analysis." These are mainly methods and orientations which help to direct the researcher's attention to a certain area of behavior which describes best the phenomenon under study. Their main purpose is to help the researcher isolate particular portions of the phenomenon he is studying and as such enables him to conceptualize the problem. A number of these tools have been employed in the present study. One of these tools is Turner's "social drama" which was employed in the analysis of the political leadership and the judicial process. Since this approach depends upon the intimate knowledge of the sequential development of a given case, or cases, over a period of time, it was quite difficult to employ it in more than that particular context. As will be apparent in the later chapters, the judicial
process among the group is highly informal. Most of the disputes are settled [627]
by means of mediation which is done behind the scene and with a great deal of secrecy.

I managed, however, during my stay to be closely in touch with one 12
of the major cases and with almost all the parties involved. This case was used as the basis for the "social drama" analyzed in chapter three of the present study.

In addition to the social drama, I have used the case study method 121
to analyze aspects of the substantive law of the group especially with 127
regard to concepts such as that of criminal responsibility and the nature of the contractual relations as exemplified by the marriage contract. Cases utilized in the study include ones that I observed myself as well [124]
as cases taken from texts and some which were told to me by informants.

Most of the data was collected through the time-honored technique 123
of participant observation which was facilitated by the fact that the 122
group spoke the native language of the researcher (or vice versa). Formal 124
interviewing was conducted on a very limited scale, thirty-five extensive 125
questionnaires in all. These questionnaires were originally designed and administered to supplement the life history material and to assess the attitudes of the particular people involved with regard to particular issues. Some of the results of these questionnaires are used in the chapter. Due to the non-representation of the sample interviewed, these results are used merely as illustration and not as representing any kind of statistical frequency.

ENTRY TO THE FIELD

It is common among anthropologists to talk with nostalgia about their 114
field experience and about the group they studied. This usually gives the impression that field work is always an enjoyable experience. Although my field work seems at the present time to have been a pleasant experience, especially when comparing it to the pressures of everyday living in a

"modern industrial society," it was not easy work. This, despite the 114
fact that there was no language barrier, seeing that I spoke the same 114
language of the group, or rather they spoke my native language; I had 122
no problems of introduction because I had worked in the area and become 123
acquainted with a number of the tribal members in 1958. When I went to the field, I then sought out these old friends who introduced me to other members of the group.

At the beginning, I made a deliberate effort to avoid associating 114
with the government officials who worked in the area, even though they were 123
quite willing to help and seemed to have an intimate knowledge of the people 177
in the area. I had thought that any identification with the government would put me in a suspicious situation as far as the tribal groups were concerned, and thus prevent me from having good rapport with them. Later, however, [657]
I realized that the relationship between the government officials in the area and the tribal population was extremely good, and they always looked to the government as a source of aid and support to them. There was no conflict of interest between the state administration and the tribal groups. In fact, people accepted me more readily whenever they knew that I had worked for the Egyptian government. This later developed into a time-consuming and disappointing experience when many of the tribal members came to me asking for help getting employment in the government projects in the area, or to have their sons accepted in certain government schools, or to get some favored treatment from the government relief organizations.

The difficulty I encountered in my field work stemmed from the inter- 114
play of three major factors: the reliance on the case study method which 123
necessitated the intimate knowledge of the events, facts, and parties involved in each case; being a female anthropologist in a society where women by definition are barred from public participation and particularly

from the process of dispute settlement; and the semi-nomadic nature of the population in the area. 114 123

The reliance on the case-study method and especially that of Turner's "social drama" which requires extensive and detailed knowledge of the sequential development of a number of cases over a long period of time proved to be a major task in a society where disputes are settled not in formal hearings, but by means of informal mediation and behind the scene negotiations. These activities covered a large area, and were shrouded in a great deal of secrecy. The assumption is that the parties involved in the dispute should be given the privacy and chance to arrive at an acceptable settlement without being conscious of or influenced by the opinion of non-interested parties. The public hearing, or the mi'ad, loves the announcement of the agreement arrived at in private. As will be seen later, very little factual information about the dispute is discussed in the mi'ad. No record is kept of either the discussion in the mi'ad or the preceding negotiations. The process of dispute settlement is, then, highly decentralized. To be able to follow one particular dispute involves the constant reliance on informants not only to acquaint the anthropologist with the places of negotiations, but also to fill the gaps in the information about the process of negotiation itself. 114 123 124 627 578

As a woman anthropologist, I found myself at a disadvantage in a society where women were excluded from public participation. It is true that from the very beginning of the field work I was never cast into the role of the native woman, yet, my position as a woman posed a certain number of problems. When I first arrived in the area, I made a deliberate effort not to identify with the native women. When it was suggested to me that the relatively short skirts I wore were not practical for riding donkeys 114 123 562 or walking in the strong winds characteristic of the area, and that the 114 123 562 floor-length native dress would be more appropriate, I refused the advice for fear of being identified in the minds of the people with the natives, and thus being treated in the same way. The possibility of being identified with native women was not very strong, because from the very beginning I did not act like one. I did things and talked about things that native women had never done or talked about. I drove a car, read, and wrote, and talked about national and local politics. More important than that though, to the tribal population, was that I was a member of the bar association of Egypt, and that I had practiced law for a year in Cairo. Every time I was introduced, the fact that I was an attorney was made evident. This gave legitimacy to my interest in studying the tribal legal system, and in many ways they were flattered than an attorney, especially a woman city attorney, would be interested in their law. Yet, in native clothes or not, in the native female role or not, I was still a woman, and as such I was not part of any serious activity, especially those of dispute settlement. My mere 114 123 562 627 presence in any part of the dispute settlement made the gathering seem somehow less serious. At the beginning of the field work a deliberate effort was made to keep me from knowing anything about the whereabouts of the negotiations or what was going on. I had to bribe men, women and children to [[24]] tell me where the negotiations were taking place and who they involved, and then appear on the scene uninvited. This condition lasted for about two months. At that time the news of my presence in the area spread around, and I had attended many of the negotiations that men became less conscious of my presence. In fact, some even asked me to attend the meetings where some parts of the negotiations were conducted and give them my opinion as to the fairness of the settlement.

Yet, even when the problem of role definition was solved, it was 114 123 still difficult to follow closely all aspects and phases of any particular 361 dispute. This was mainly the result of the semi-nomadic nature of [627] the population. In settled communities, the anthropologist usually finds himself in the midst of the social life of the community. He might not be a part of it, but at least a major portion of it is happening around him. In the case of nomadic or semi-nomadic populations, the situation is different. There were no large tribal concentrations in the area. The [621] largest residential unit was the camp, and it consisted of no more than thirteen tents which changed in composition quite rapidly. In one camp, out of the thirteen tents which were there when I joined, only six remained unchanged by the time I left three months later. Originally I had planned to stay in the small village of El-Hammam, which was believed to be in the tribal route of the major tribal segment in the area. It took [487] me only a few weeks to realize that the tribal segments did not follow any definite migratory route, and for more than four weeks I saw nothing of the life of the group more than the few individuals who came occasionally to the small settlement to buy tea or sugar, or to catch the train to Alexandria. It was then that I decided to leave the settlement and live with the camp. My stay in the camp was very insightful as far as information about the daily activities of the camp members and the relationship between the camp and other tribal segments in the area. But the camp was a very small group and fairly isolated. Besides, there was no way of knowing how typical that camp was to the other camps in the area. I finally decided that the best strategy was to live with a number of camps in the surrounding area for relatively short periods of time, making my base of operation a relatively settled camp in close proximity to a number of other camps.

CHAPTER II

ECOLOGY AND HISTORY

619 Awlad Ali are a number of Arabic-speaking semi-nomadic tribes of
101 sheep and goat herders who inhabit the northern part of the Western
162 Desert of Egypt. The total population of Awlad Ali, according to the
1965 preliminary census, was about 100,000 inhabitants. This esti-
mate is, however, very tentative and fluctuates from one year to the
next, depending on the circumstances of the pasture in the area. The
131 area they occupy consists of the narrow strip of fertile land which ex-
tends along the Mediterranean coast from near Alexandria in the east
some 350 miles westward to the UAR-Libyan border town of Sallum, and
132 varying in width from ten to thirty miles. Vegetation in the area de-
133 pends on rainfall, supplemented by a number of artesian wells. The
rainy season extends from November to March, but the rain is extremely
erratic in nature, varying from one year to another and from one place
to the next. Draught has been experienced every three to four years,
one of them being experienced at the time of the study. The water situ-
312 ation is further aggravated by the low technological level of the people
[181] which prevents them from making the best use of the available rain water.
There have been some attempts made to store as much of the rain water as possible, but these attempts are usually made by individuals and in too crude and primitive a way to prevent most of the water from being lost by seepage or by evaporation. The most commonly used method of water preservation in the area is digging cisterns in the ground. But most of these cisterns are too shallow to keep large amounts of water. Some deeper wells are found in the area and are called "beer sama"

312 (literally, sky-wells, to indicate that they are dug to receive and
[172] preserve rain water). Most of these are ancient Roman pools which were
claimed either by the government or by individuals, and are put into
[653] use again to store rain water. Recently, the government has erected a
number of dams to preserve the rain water in exceptionally good years
from flowing into the sea. All this, however, is not enough to provide
the tribal population in the area with a permanent supply of water because of the limited capacity of the cisterns and the pools and the
scarcity of rain and its erratic nature. Recent attempts have been
made to tap the underground water in some parts of the area. A large
number of wells were sunk, especially along the coast.

433 The economy of Awlad Ali is based on livestock husbandry, supple-
221 mented by occasional cultivation of barley. Owing largely to the variation in the amount of rainfall, the sources of food in the area have the
important characteristic that the place and amount of their occurrence
vary from one year to the next. Throughout most of the area, the tribal
populations are concerned predominantly with warding off shortages in
the food supply by moving with their flocks to areas where grazing lands
are available.

233 Awlad Ali keep a variety of domestic animals, the most important
of which, from the economic point of view, are sheep and goats. The
[433] economy of Awlad Ali is based on the utilization of the products of
[237] these two animals. These products are milk, meat, wool, and hides.
[262] Milk and its products constitute the basic element of the people's
[272] diet. Milk is never consumed fresh.. It is always made into sour milk
272
252 (maleh), kishk (dried milk), or butter.

236 Wool is also very important to the economy of Awlad Ali. Lamb's
286 wool is either sold or spun and woven into rugs. Goat's wool is spun
and woven to provide the cover for the tents.

231 Sheep and goats are rarely slaughtered for meat except on special
[262] occasions. Most male and many female lambs and kids are sold in the
[432] market and the money is used to buy the necessary supply of food (like
[438] tea, sugar, salt, etc.), clothes, and other household items. Most of
438 these items are obtained from the shops in the settled communities in
439 the area, although some of the major items can be obtained only from
443 large urban centers like Alexandria.

231 The other domesticated animals that Awlad Ali keep are the donkey
492 for transport and riding, a few camels for heavy transport and also for
[236] wool, very few horses for riding on special occasions (they are con-
[554] sidered as a status symbol for those who own them), and the dog to
guard the camp and to protect the herds from wolves and other predators.
235 Poultry are usually kept for meat and eggs which are sometimes sold by
432 the women in the nearby markets.

233 The main occupation in the area is stock raising. Grazing lands
137 extend generally south of the cultivated land in the northern strip.
[132] The growth of pasture plants is affected by the amount of rainfall in
a particular year. Low rainfall causes acute shortages of pasture and
herbage, and leads to the death of animals by both starvation and thirst.
Pasture plants comprise a wide variety of bushes, scrub, and many other
species of grasses, most of which have a very short life span. These
plants normally persist from December to May; then the land is turned
into arid, hard desert with only a few dispersed patches of dry grass.

233 221 The grazing season extends between November and April. As the dry season advances, the flocks are moved northward to the cultivated lands so as to be nearer to fodder and to the waterholes which stand usually very close to the coastal zone. During the dry season, animals live mainly on barley straw and very little dry grass. In exceptionally bad years, the people are compelled to dispose of their animals or to sell some of them in order to be able to maintain the rest. In such years the shepherds find it necessary to cross the border to the permanent pasture of Cyrenaica in northeastern Libya, or to move to the Delta where they may purchase the right to graze in wheat fields after reaping the crop.

243 Grain crops, mainly barley, are also grown in the area. Depending
on the rainfall, pockets of land characterized by deep alluvial soil
and underground water at various depths are cultivated with barley and
other grain crops. Barley cultivation is preferred by the people be-
[246] cause it grows quickly and matures faster than wheat; also, it can be
cultivated in a range of soils and climates; it is mostly used as ani-
mal feed. Barley straw is also used as fodder for animals. Because of
[132] the erratic nature of rainfall, barley production is hazardous in most
[233] of the region. For this reason, pastoralism remains the most impor-
[433] tant mode of subsistence and cultivation becomes secondary. Cultiva-
tion is done on the basis of shifting cultivation, which means that the
areas cultivated vary from one year to the next following the rainfall.

Land Tenure

423 311 Most of the cultivable lands, as well as the grazing lands, are under tribal occupation. Awlad Ali have, by custom and usage, had for

423 311 many generations a recognized right by the Egyptian government to use the land for grazing and cultivation, and the tribal concept is that the land belongs to the tribe.

The concept is true with regard to wells and cisterns. But legally speaking, land belongs to the state, and the tribal populations in the area have only the right of usufruct. This does not mean that the land is exploited jointly by all members of one tribe or tribal segment, or that a man can cultivate or graze his flocks in any part he chooses, for there is a certain correlation between the right of usufruct and the distribution of the tribes in the area on the one hand, and the inner tribal segmentation on the other. Although land is not [556] an object of ownership in itself, and wealth is not spoken of in terms of land, yet, the distinction between ownership and usufruct in the 423 311 619 area is sometimes very hard to draw. Each tribal segment has its name associated with a specific area of land which it regards as its own and whose boundaries it defends against other tribal segments. The tribal segment whose name is associated with a certain locality not only has the right to use the land, but this right is also vested in it to the exclusion of other segments. Within such an area, each subsegment has the right to a portion of the land to the exclusion of the other subsegments. While individual members of the tribal segments know the land belonging to their tribal segments, their right is not associated with a specific patch within the total area. Individuals usually cultivate different patches within that total area as the need may arise; but one cannot cultivate a patch in an area belonging to another tribal segment except under certain conditions. This does not mean that the individual cannot claim the right to a specific patch, for not only

423 can he do this, but he can also sell that right. The right to sell the
311 share of the tribal land has recently become recognized in the Western
619 Desert, and the usufruct right is being treated in the same way as
ownership.

423 While the boundaries of the cultivable land belonging to the tribe
311 are guarded, when it comes to grazing land, the boundaries are not so
619 much enforced. The tribes of the Western Desert of Egypt are quite tol-
233 erant in allowing members of other tribal segments to graze their flocks
wherever grazing lands are available. Everyone from any tribe can graze
his flocks in areas that offer better pasture. But in doing so, he does
not have the right to use the wells and cisterns of the tribal segment.
[312] Water is scarce and valuable. Cisterns are owned by the tribal segments,
[432] and if an outsider wants to use the water, he has to buy it from the
owner for the whole season for a sum ranging between $100-$180.

423 In 1958, with the extension of the Mariut irrigation project, a
656 Desert Land Possession Law was enacted and came into force in 1960.
This law restates the right of the government to the ownership of the land, and therefore does not recognize the tribal possessions of the land, even when they have made certain improvements in it, such as planting trees or digging wells. However, it gave the right of the occupants of a certain area of land to request either the purchase of the land or its lease for a period not exceeding nine years, granted that such is made within one year of the passing of the law. Failing to do so within one year, the government will either remove the plants and buildings, or confiscate them without compensation.

423 656 The above law met with opposition from the tribal population in the area. As a result of this opposition, a new law was enacted in 1964 (Law #100). Although this later law eliminated some of the shortcomings of the previous one, it is not itself without disadvantages. The 1964 law recognizes the Bedouins' right of ownership only in areas where the fairly permanent trees were planted before 1958. Rain-fed areas cultivated from season to season are excluded. The new law also provides for the sale and transfer of land. Any person can purchase up to 50 feddans (acres) provided that he can develop it into an economic enterprise. The law also provides for the distribution of arable lands in such a way as to permit each head of household to own 10 feddans and to be provided with water possibilities. The price of this kind of land is to be paid over a period of 30 years. Settlers are encouraged and helped in planting trees and building dikes. So far, 8,600 feddans [312] irrigated by windmills have been possessed by members of Awlad Ali tribes, and titles to their holdings are being issued.

233 423 656 With regard to grazing lands, no legislation has yet been issued, and the government feels that at this stage of development, it is essential to start educating and inducing the tribal population of the Western Desert in initiating and implementing new programs for preventing overgrazing and controlling the number of flocks.

The Group

619 The name Awlad Ali covers a number of ethnically distinct groups. In addition to Awlad Ali proper (the descendents of Ali), referred to as the Sa'adi, it includes a number of Murabiteen (holy men) tribes who are attached to various segments of Awlad Ali and occupy an inferior political position. The name also includes various peasant

619 The name also includes various peasant
[563] groups and individuals who migrated from the Nile valley and who were
incorporated into the tribal organization by a system of tribal adoption called "Iktitab." Most of these peasant groups came to the desert
[701] to avoid military drafting by becoming part of Awlad Ali, who, until
[554) 1947, were exempted from serving in the Egyptian army. Although groups
and individuals thus adopted become part of the pedigrees of the adopting tribal segments and are supposed to enjoy equal status, yet, insofar as their origin is still remembered, they are looked down upon by the Sa'adi and occupy a position somewhere between that of Awlad Ali Sa'adi and that of the Murabiteen.

619 The Sa'adi tribes consider themselves to be the descendants of a
173 certain Aqqar Ben Sa'ada or Aqqar El-Sherif, a descendant of Bani Suleim,
who settled in Cyrenaica in the Fifth Century. Although they claim to
[144) be of pure Arab ancestory, all sources agree that a considerable amount
of mixture between Arab and indigenous Berber populations took place during the period they have been in North Africa.

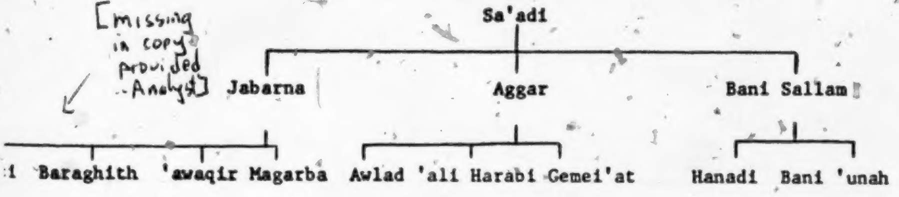

Fig. 1. The Sa'adi Tribes

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* The exact relationship of the Gemeiat tribe to the Sa'adi tribes is not exactly known. Many informants, as well as accounts of earlier travelers in the area, assert that descent from Hkadiga, a sister of Ali and Harb, and therefore are cousins of Awlad Ali. Others, especially members of Sa'adi tribes, themselves, deny any genealogical

619 Until two centuries ago Awlad Ali lived in eastern Cyrenaica.
173 After the death of Aqqar, his two sons, Ali (founder of Awlad Ali) and
Harb (founder of Harabi tribe on chart), competed for the leadership of
619 the tribe. This competition involved their respective tribes in a
173 bitter war which existed for more than fifty years. In one of the major
726 battles between the two tribal segments, the Harabi segment with help
[648] from the Caramanli rules of Tripoli were able to defeat Awlad Ali and
to drive them eastward across the Libyan-Egyptian borders into the
Egyptian Western Desert. This happened about 150 years ago. At that
time, the area was occupied by the Hanadi, a warlike cousin of Awlad
Ali, who had established a system of dominance over the Murabiteen
tribes who are believed to be the original inhabitants of the desert.
The area also was inhabited by the Gemeiat tribe, which, although believed to have Murabiteen status, yet were not treated as clients of
the powerful Hanadi, as were the other Murabiteen tribes in the area.
With the help from the Murabiteen, Awlad Ali were able to defeat the
Hanadi and to drive them eastward into the Nile Delta, where they
settle now as cultivators.

619 During the rule of Muhammad Ali (1815-1848), the warlike Awlad
175 Ali were frequently used by the government to subdue the tribal uprisings in the Delta and other parts of Egypt, and to hold the Mamlukes
648 in check. There was no organized army in Egypt at that time except for
a few remnants of the Turkish soldiers. The tribal population of
Awlad Ali agreed to supply Muhammad Ali with fighting men on the condition that they would be provided with food and arms and also exempted

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[619] connection to Gemeiat and insist that they are a Murabiteen tribe who ac-
[173] quired their relatively higher status through their assistance to Awlad
Ali during their fight with the Harabi.

619 from forced labor in government projects and released from the pay-
175 ment of taxes. The government agreed to these demands, and on their
648 part, Awlad Ali helped Muhammad Ali extensively in his military expe-
dition in Syria and Arabia and were a major factor in the battle of
1815 at Bissel where he succeeded in breaking Wahabi power. They also
helped his son, Ismeal, in his expedition to the Sudan.

Later, when the Egyptian army was organized, the government ex-
[701] empted Awlad Ali and other tribal groups which helped in the military
conquests from military service, but required them to undertake the
guarding of the desert roads and the frontiers of Egypt. Also, in
[423] exchange for their previous services, they were given the right to use
the land of the Western Desert and left the question of its distribu-
tion among the various tribal segments to the native tribal leaders.
619 Finally, in 1832, Awlad Ali were granted a form of legal and political
175 autonomy whereby the government acknowledged the tribal legal and
648 642 judicial system as the means to settle disputes between members of the
tribe. The government also recognized the authority of the native tribal
leaders and allowed the tribal populations to be governed by their own
native system of leadership.

This political autonomy of Awlad Ali existed until 1947. Although
their usefulness to the government had long ceased to exist, they had
continued to enjoy the privileges they had obtained earlier. This was
partly due to the fact that the various governments that came after
Muhammad Ali showed no interest in the area occupied by Awlad Ali.
There were no taxable lands in the area, no natural resources of any
promise, and the tribal population did not present any particular prob-
000 lem to attract the attention of the government. There was some smuggling

There was some smuggling
439 of goods across the Libyan border, but this smuggling was done on a
648 very small scale. Before the Egyptian government imposed restrictions
on imports, the prices of the goods in the Libyan market were close to
their prices on the Egyptian market. Except for a very few items which
were not found on the Egyptian market, smuggling goods from Libya offered
653 a very limited financial gain to the smugglers. In recent years, this
situation has changed, however. With population increase in Egypt
threatening disaster, and with the cultivable land in the valley reaching
its maximum productivity, the attention of the government was drawn to
the fertile yet dry land of the northern strip of the Western Desert as
a possible means of expanding the cultivated area. A number of projects
are taking place at the present time under the land reclamation act. The
most important of these projects is the Eastern Mariut project which is
directed toward the irrigation of the lands of the Western Desert
through the channelling of the flood waters of the Nile into a network
of canals covering an extensive area of the northern strip of the Western
315 Desert. Also, recently, oil has been discovered in the area, and since
457 the end of the Second World War, the area has been a major attraction
for tourists.

439 More important is the increase in traffic of smuggled goods from
[651] Libya. Custom restrictions on imported goods to Egypt have created a
[656] scarcity of American and British manufactured goods which raised their
price on the Egyptian market and made smuggling a profitable activity.
An opposite-direction smuggling of sheep and goats from Egypt to Libya
[315] created a great shortage in the Egyptian meat market. Before the discovery of oil in Libya, the Western Desert area supplied the Egyptian

439 market with more than one-third of its lamb meat. The other two-
[315] thirds of the lamb market was supplied from the Sudan, the Delta, and
[315] from Libya. Oil industry in Libya attracted a large number of the young
[178] tribal members in Libya, who had originally undertaken the main task of
[464] sheep pastoralism. As a result, the population of sheep and goats in Libya dropped sharply. Not only did the Libyan market become unable to supply the Egyptian market, but it was also unable to support itself and was forced to pay high prices for the Western Desert sheep and goats.
[457] The price became even more attractive after the devaluation of the Egyptian pound which gave higher value to the Libyan currency, and hence, the price of sheep. In the last decade, the number of smuggled sheep reached a point where it created a great shortage of lamb meat in Egypt. All government attempts to stop smuggling activities in either direction have failed.

657 All these factors attracted the attention of the government to the area and its people. The need to control the tribal population became evident. But since it is difficult, if not impossible, to control a population which is constantly on the move, the first step the government took to control the tribal population was to settle them in permanent villages. A number of projects are underway. The aims of these
[654] projects are to increase the cultivated land and to improve the pastures
[137] by introducing new and highly nutritive pasture plants in areas where agriculture is not feasible. Attempts have also been made to promote local crafts and industries. The intentional efforts of the government
[178] to settle the tribal population is supplemented by the gradual drift of
[464] many tribesmen, especially the younger generation, to seek part-time or

657 full-time employment with the government projects in the area and
[178] settle in fairly permanent houses near the place of work.
(464)

657 With the movement toward settling down, the relative legal and
201 political autonomy which Awlad Ali once enjoyed is breaking down. This
642 was reflected first in the loss of military exemption. In 1947, the
draft law was applied to all tribal populations in Egypt, including
Awlad Ali. The application is not seriously enforced, however, due
to the fact that births are still not recorded in the area. In 1954,
657 the "omda" or mayorship system practiced in the rural areas of Egypt
634 was extended to the Western Desert with certain modifications to fit
177 the tribal organization of populations in the area. This put a strain
on the native system of leadership, a point which will be covered in
657 later chapters. Finally, and along with the extension of the omda sys-
692 tem, the jurisdiction of the legal system of the state was extended
177 over the area. This resulted in a duality in the judicial process.
178 The tribal law, with its traditional tribal mediators, is still func-
tioning side by side with the modern court system of the state law. In
many cases, especially in criminal cases, the individual is tried under
both systems, and sometimes receives two different judgments for the
same offense. Various efforts are being made to minimize the effects
of this duality. In civil cases, the problem does not seem serious,
since it is the parties themselves, or one of them, who voluntarily
bring the case to the attention of the legal authorities. Therefore,
they can choose between the traditional legal system and the modern courts
of law. So far, civil cases are brought to the modern court system only
when the native procedures fail to achieve a settlement. As such, the

657 modern court system may be viewed as a form of appeal to the tribal
692
177 justice. One has to be careful, however, in calling such a procedure
178 an appeal, since the tribal proceedings have no relevance in the court
proceedings.

69[illegible] The duality is more serious in criminal cases. When an act is de-
681 fined as illegal by both the tribal and modern law, persons committing
177 it come automatically under the jurisdiction of both laws. As long as such acts remain unknown to the police, the duality of procedures is not undertaken. This is possible in minor cases of assault or theft or adultery. But in major cases, such as homocide or serious assault resulting in the serious injury of a tribal member, it is difficult to keep the news a secret from the authorities. The funeral proceedings in the former cases and the medical attention needed in the latter cases
[627] are hard to conceal. Besides, serious cases start a whole series of
[521] mediations and go-betweens which always become the general knowledge in the entire area and the subject of conversation among the people. When the authorities know about such cases, they have to take immediate action to bring the offender to trial, even when the government authorities know that the tribal proceedings are being conducted in the case. Some attempts are made by both the tribal law and the modern law to minimize the effect of that duality. It is common that when the district attorney knows that a certain criminal case has been successfully solved according to the tribal proceedings, to ask for the minimum penalty for the offense. On the side of the tribal proceedings, once the case has been solved, the witnesses needed to testify for the prosecutor are instructed by their fellow tribesmen to refrain from giving the information

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681
177

required for the indictment of the offender according to the modern legal system. If this is not possible and the offender is sentenced by the government court, only half the tribal settlement is paid, and the rest is postponed pending the release of the offender. If the offender is executed or he dies in prison, then the unpaid part of the settlement is dropped.

CHAPTER III

TRIBAL ORGANIZATION

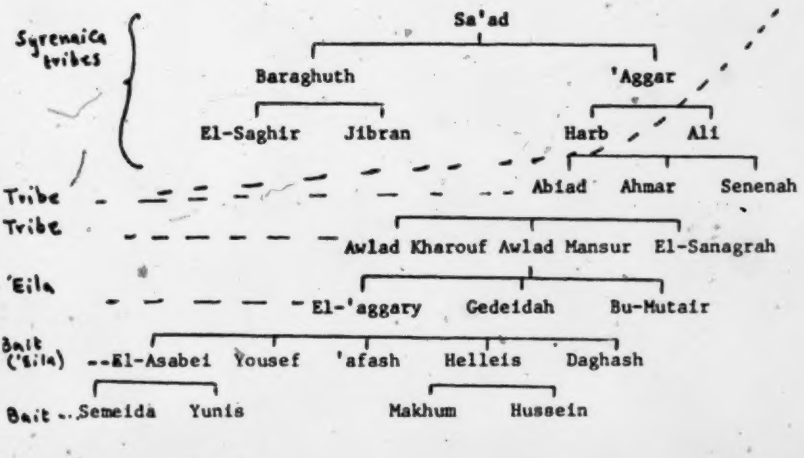
121 In discussing the tribal organization of Awlad Ali two modes of
619 analysis are employed. One is a structural form of analysis in which
emphasis is on the hierarchy of groups and subgroups by which the
tribesmen order themselves. This view of the system is an outside
one regarding all smaller units as parts of a delimited whole: Awlad
Ali. The other mode of analysis involves the description of some of
these groups in terms of the processes by which they emerge and maintain
themselves.

The first problem one encounters in pursuing the first kind of
121 analysis is that of definition of the tribal boundaries. It has been
619 mentioned earlier that the name Awlad Ali includes a number of groups
563 of different ethnic backgrounds. Some of these have been incorporated
into the tribe by the system of tribal adoption known as "Iktitab."
Such groups consider themselves as Awlad Ali and are considered as
such by Awlad Ali proper as well as by outsiders. Other groups such
121 as the Murabiteen are not thus incorporated into the tribe; and although
619 they consider themselves to be Awlad Ali, they are not viewed as such
by Awlad Ali themselves who prefer to keep the position of the
Murabiteen distinct as an inferior group. On the other hand, many
[167] Awlad Ali have moved outside the area of the Western Desert and have
become settled cultivators on the banks of the Nile. These retain a
vague and remote genetic connection to the name Awlad Ali.

To avoid this problem, it is best to define the tribe by political rather than by ethnic criterion. There is no paramount chief of the

There is no paramount chief of the
121 tribe at the present time; yet, the unifying force is the recognition
619 671 by the group of the tribal law, the Daraieb, as a binding set of rules
[643] and as the regulator of behavior within the area. In these terms,
Awlad Ali are a clearly delimited group, and it is in terms of the
jurisdiction of these rules that Awlad Ali are treated as a unit for
administrative purposes by the Egyptian government. Viewed this
way, Awlad Ali will be defined as those who recognize and abide by
the Daraieb or the customary law. This includes the Murabiteen tribes
[563] as well as all those who became part of the tribal organization of
Awlad Ali by means of Iktitab. Since the territorial jurisdiction of
the Daraieb is limited to the Western Desert of Egypt, those groups
and individuals of Awlad Ali origin who have moved on a permanent basis
from the area will be excluded from the group. Groups and individuals
who live in the area but are not part of the tribal organization of
Awlad Ali are not subject to the Daraieb.

619 Awlad Ali of the Western Desert of Egypt are an offshoot of the
173 Cyrenaica tribes who in turn believe themselves to be the descendants
of a unique ancestress Sa'ada.


Syrenaica tribes
Sa'ad
Baraghuth
'Aggar
El-Saghir
Jibran
Harb
Ali
Tribe
Abiad
Ahmar
Senenah
Tribe
Awlad Kharouf
Awlad Mansur
El-Sanagrah
'Eila
El-'aggary
Gedeidah
Bu-Mutair
Bait ('Eila)
El-Asabei
Yousef
'afash
Helleis
Daghash
Bait
Semeida
Yunis
Makhum
Hussein

619 173 Awlad Ali themselves are divided into three major sections: Ahmar (the Reds); Abiad (the Whites); and Senenah. Each of these sections is referred to as "tribe" and sometimes "tribes." The first two major sections, those of Ahmar or the Reds and Abiad (Whites), are named after their mothers, the wives of Ali (founder of Awlad Ali). The Whites are named after their white mother, and the Reds after their Sudanese mother who, owing to her dark complexion, was known as El-Hamra (the red one).

613 114 551 [595] In the past, writers such as Robertson-Smith (1903) have interpreted the reference to female names in patrilineal genealogies as indicating an earlier matrilineal descent. I tend to agree with a more recent writer, E. Peters (1959), who explains the reference to female ancestors by two factors: patrilineal descent and polygyny. According to him, it is a way of distinguishing full brothers from half brothers and a means to show this genealogically. "The concept of the 'one womb', of maternal origin, is a critical one in the context of social cohesion, but it does not deny patriliny; on the contrary, it serves a sense to enforce it. Female names can be used to show a greater notion of cohesion than the mere use of male names, and the significance of a female name . . . is that it is symbol of full brother unity at the highest political level." (p.29).

613 551 173 619 This can be further supported by evidence from my own data which show that reference to female names occur more frequently in charts where tribal names rather than proper names are used. In genealogies using proper names, informants rarely, if ever, trace their descent to an ancestress. But when charts of tribal names are used, it is not

613 uncommon to find reference to female names. This indicates that it is
551 only when the unity of the full brothers becomes politically signifi-
173 cant that the name of the mother rather than the name of the father is
619 used. This may explain why the occurrence of female names in Awlad Ali
[595] genealogies is not as common as one might expect judging from the fre-
quency of polygynous marriages among the group.

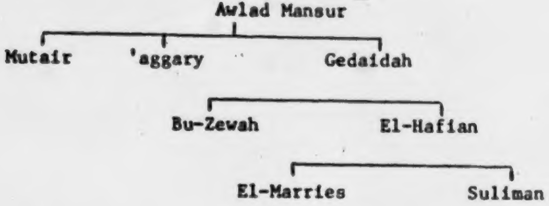
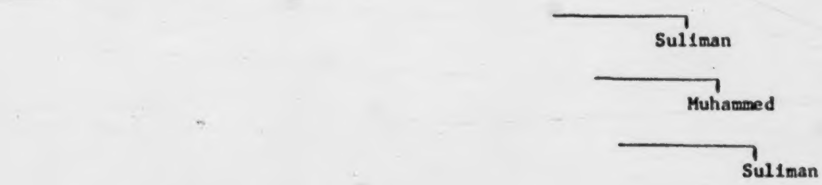

Awlad Mansur
Mutair
'aggary
Gedaidah
Bu-Zewah
El-Hafian
El-Marries
Suliman

Fig. 3. Recognized tribal segments of Awlad Mansur (a segment of Awlad Ali)


Mansur
Bu-Asabei
Bu-Mutair
'aggar
Muhammed
Bu-Zewah
Abdellah
Hussein
(Hafian)
Muhammed
Suliman
Muhammed
Suliman

613 The two charts show the same unit of Awlad Mansour. The first of
619 the two charts shows the tribal segments in which Eilat Gedaida (a fe-
173 551 male name) appears as one of the segments. When the actual genealogical
chart of one of the living members of that segment was drawn, descent
was traced to Mohammed, the husband of Gedaida, as shown on the second
chart. In this case Gedaida is not a member of Awald Mansour segment.
The unity of the full brothers is emphasized without changing the affil-
iation of the segment. It is simply a means of carrying on the patriline
using the mother's name. This is not always the case, however. Examin-
ation of other cases in which the female name was used reveals the fact
that in certain instances using the female name is a means of carrying
on the line of descent through a daughter. This meant incorporating
within the tribal segment a whole group of individuals who otherwise
613 would have belonged to a different patriline. Carrying the line through
619 the daughter in this manner has the same result as adopting her husband
551 unto the tribe. The question then is why wasn't adoption used. Examin-
597 ation of the two cases in which this happened indicates that a possible
explanation may be that this occurs whenever the husband is unadoptable.
Adoption is possible whenever a man does not have any tribal affiliation.
613 In one of the two cases the husband belonged to the Gemei'at tribe, a
619 Murabiteen tribe which enjoys a relatively higher status than the
551 other Murabiteen tribes by virtue of their being the original settlers
597 of the area and helping the Awald Ali in their fight with the Hanadi,
554 yet compared to Awlad Ali proper occupies an inferior position. In
this case, relating to the patriline of the mother carried with it a

613 definite political advantage. In the second case in which the female
619 name was used, the husband was a member of the Bara'asa tribe of Libya.
551 Although this tribe is one the powerful tribes of Libya, it has no
597
554 political influence in the Egyptian Western Desert. Changing affiliation carried with it the strong political support of the mother's tribal segment.

619 In general the Reds occupy the western half of the coastal area of
131 the Western Desert from the town of Matruh westward to the Libyan border, while the Whites occupy the eastern part which stretches to Alexandria. The Senenah are fairly scattered although their largest concentration is located in the extreme western part overlapping that of the Reds. The territorial division of the area among the three major sections of Awlad Ali is not a strict one. Historical evidence shows that there has been
[194] a considerable tribal displacement throughout the area. This displacement occurred mainly during the intratribal war era and during the Second World War when the area was a main battlefield. In general, however, there is a significant relationship between territorial distribution and tribal segmentation, and this is especially true on the higher levels of segmentation than on the lower ones.

619 Each of the three sections of the apex of a three-tiered order of
613 segments which, following the native usage, will be called Kabila (tribe), Eila (family), and Bait (house).

619 The first order referred to as tribes are structurally equivalent
173 units but of highly variable size. Each of them has its traditional history. Some of these histories are important to the tribe as a whole.

619 Such traditions differentiate between these segments which otherwise [173] occupy an equivalent position in the formal system.

This level of segmentation has no particular political significance except that it is at this level that the client tribes of Murabiteen are attached. People in the area differentiate between Awlad Ali proper, who are called the Sa'adi, and the Murabiteen tribes. Murabiteen tribes occupy a special position which tends to complicate the formal analysis of the tribal organization of the Awlad Ali. The Murabiteen are a number of tribes of varying sizes and origin which are attached to the Sa'adi tribes as their vassals or clients. They exhibit the same principles of tribal organization as the Sa'adi tribes escept that they have no common origin similar to that of the latter groups.

619 The original division of the Murabiteen tribes among the Sa'adi was 173 made in the famous meeting at El-Haqfa in which the division of land was also made and the Awlad Ali law was first enacted. The number of client groups attached to each Sa'adi tribe reflects the relative prestige and power of thatparticular tribe at the time of the meeting. Having a 619 173 relatively large number of client tribes meant, in addition to prestige of 651 the patron tribe, large financial support. Until half a century ago this financial support was in the form of an obligatory tribute or "sadaqa" which the client tribes had to pay. This tribute is no longer [178] mandatory, but the client groups are still expected to present members [431] of their patron tribes with gifts on occasions such as weddings, funerals 619 or feasts of the tribal saint. Large vassal groups also meant support in fights. Although the client groups did not constitute part of the vengeance group of their Sa'adi, when the Sa'adi tribe fought, their client

619 groups were expected to help. For these reasons the Sa'adi tribes com-
619 peted and even fought among themselves for the newcoming Murabiteen
721 groups which continued to migrate into the area, escaping the strong
dominance of the Cyrenaica Bedouins..Many of the major tribal wars which occurred in the area before the turn of the century had as their major cause the competition over the Murabiteen.

619 As a vassal group the Murabiteen tribes are kept in an inferior
778 position. This inferiority has certain manifestation, the most obvious
184 of which is the deprivation of the Murabiteen of the right of "nazala"
682 or refuge. When a person is killed the killer and his kin unit seek re-
778 fuge at a neutral tribal segment, and for a period of twelve months they
613 are safe from the revenge of the victim's kin group. The victim's family
[871] cannot follow them to the refuge place, for to do this is to violate one
of the basic principles of Awlad Ali law. The philosophy behind the rule of "nazala" is to give time for "the blood to cool off" as one of the informants described it. It also gives the host group a chance to start immediate negotiations with the victim's group to settle permanently the dispute. As soon as the murderer's group takes refuge, which is done either by moving along with their tents and flocks and settling in the locality of the host group or symbolically by having the head of the host group send one of his sons or male relatives to pitch his tent in the locality of the murderer's group, the head of the host group contacts the victim's group, informs them that he has been chosed by the murderer's group in accordance with the right of nazala, and asks for their permission to grant his protection to the murderer's group. To ask for the permission of the victim's group is a matter of formality since, by custom, they cannot refuse to grant this permission except on one single ground:

682 778 613 if the host group is genealogically close enough to the murderer's group as to be themselves part of the vengeance group. As soon as the permission is granted the head of the host group starts negotiations on behalf of the murderer. Since the basic reason for the nazala is to avoid the direct confrontation between the two opposing groups, the first task of the negotiations is to define which places and markets each group can go to during the year of the nazala. Once this has been agreed upon, the difficult task of settling the dispute begins. The success or failure of the negotiations depends on the skill of the negotiator and the weight his tribal segment has in the area. This makes it of extreme importance for the murderer to select the tribal segment which can affect such a settlement. In cases where the host group is not particularly powerful, the victim's group pretends to agree to a settlement in order to have the murderer and his group leave the locality of the host group and then takes revenge by killing the murderer. This cannot happen when the host group is powerful, since such an action would automatically make the host group enemies of the victim's group.

619 184 778 682 With very few exceptions which will be dealt with later, the right to offer refuge is limited to the Sa'adi tribes. No Murabiteen tribe can grant refuge to a murderer, although they themselve can seek refuge at a Sa'adi tribal segment if one of them is involved in murder.

619 184 [682] [582] Another less conspicuous manifestation of the inferior position of the Murabiteen relative to the Sa'adi is the fact that the bloodmoney for the Murabit is two-thirds that for the Sa'adi man. Also, until very recently, marriage of a Sa'adi to a member of the Murabiteen tribes was considered by the Sa'adi as a very poor choice and was discouraged.

619
184 In recent years this has changed, however. The increased importance
178 of wealth in the recently introduced money economy relaxed the en-
582 dogamous tendency that was characteristic of the Sa'adi tribes.

619 In discussing the position of the Murabiteen tribes it is worth
184 noting that not all the Murabiteen tribes in the area occupy the same
position. Some enjoy relatively higher positions than the others. Ac-
tually, there are two kinds of Murabiteen in the area: Mustaqillen (in-
dependent Murabiteen); and the dependent Murabiteen. The latter are
further subdivided into Murabiteen bil-baraka (with the blessing); and
Murabiteen bil-sadaqa (with the tribute). The only independent Murabi-
teen in the area is the Gemei'at tribe. These are the original settlers
[173] of the area. Because of their help to Awlad Ali against the Hanadi, the
latter were defeated and Awlad Ali were able to occupy the Western Desert.
For their part the Gemei'at tribe was granted its independence by Awlad
Ali and were given one-third of the total area as their homeland (watan).
619 In theory, the Gemei'at tribe occupies the same position and has the same
184 rights as the Sa'adi tribes, including the right to offer their protec-
778 tion which is denied to all other client groups. In practice, however,
682 this seems to be of no practical value. None of my informants could re-
member a single case in which a murderer has taken refuge at a segment
619 of the Gemei'at tribe. The importance of the nazala is not merely to be
778 safe from the pursuit of the victim's group but rather to provide the
184 mediators who undertake the crucial task of negotiation on behalf of the
682 murderer and his gorup. It is the ability to settle the dispute on a
627
628 permanent basis that offers the actual long-lasting protection, even
after the time of the nazala expires. To be successful in his pursuit,

619 the negotiator has to have behind him the full weight of his tribal se-
778 gment. Since the origin of the Gemei'at tribe as a Murabiteen tribe is
184 well known, any negotiator has to rely almost entirely upon his own skill
682 to affect any settlement; even if he is able to affect such a settlement,
627 628 there is no guarantee that it will be permanent.

619 The Murabiteen bil-baraka and Murabiteen bil-sadaqa occupy the same
792 position as vassal groups. The only difference between the two is that
the first, the religious men, are much more respected than the latter.
They are feared by the other tribes because of the belief that they have
direct contact with the religious and spiritual world and can harm those
who dare to offend them in one way or another. Because of this factor
[627] and of their neutral position with regard to the rest of the tribes, they
[628] play an important role in mediation and dispute settlement.

619 The origin of inferiority of the Murabiteen tribes in general is
184 hard to account for. Kenneth (1925) believes that hundreds of years ago
174 the Murabiteen were essentially the holymen. They learned to read and
792 write the Qoraan and grouped themselves around the "zawias' which were
the centers of learning and religion. While indulging in their religious
practices their flocks ere grazed miles away in the open desert under the
charge of the Sa'adi shepherds, who originally were the poor paid workers
of the Murabiteen. These shepherds, living out in the open, were busy
fighting away the raiders attempting to steal their flocks. As time
passed the Sa'adi shepherds became not only tough fighters but also wealthy.
This latter end was achieved partly as a result of successful raids on
neighboring tribes. Later when the Sa'adi planned a large raid, they entrusted their flocks to the Murabiteen, who by that time had become dependent upon the Sa'adi for their protection from the raids of other tribes.

619 The picture was reversed then with the poor Sa'adi shepherds becoming
184 the masters, acquiring great wealth and prestige because of their fight-
174 792 ing ability, and the holymen becoming the shepherds and clients of the
Sa'adi fighters. In the old inter-tribal wars, the Murabiteen stood a
[651] very limited chance so the Sa'adi tribes adopted them and in return for
a yearly tribure guaranteed theprotection of the Murabiteen from external aggression.

As time passed, the main difference between the Sa'adi and Murabiteen tended to diminish. One or two outstanding Murabiteen tribes fought their own battles without seeking the protection of the Sa'adi and remained independent, while a few others rose up and fought on with the protector against a common foe (the case of the Gemei'at tribe is an example) and in return were emancipated from the stigma of serfdom and accepted by the Sa'adi as almost equals. Other Murabiteen tribes remained attached to their Sa'adi protector as client groups.

Ibn Khaldoun also saw the inferiority of the Murabiteen tribes as stemming from a mode of tribal relations adapted to inter-tribal warfare (1845).

613 The Eila

The Eila represents the next level of tribal segmentation among the
Awlad Ali. The Eila is the most important political unit. Although the
Eila lacks any formally recognized leadership, its importance stems from
the fact that it constitutes the vengeance group or Ámar El-Dam (unity of
613 the blood). This means that it bears a corporate responsibility for the
672 actions of its members. Anyone of its members can be killed in vengence
682 for a homocide committed by any other, and the duty of revenge for any

613 672 682 member falls on all members alike, regardless of the exact genealogical relationship to the victim. When bloodmoney is to be paid, its members pay it as a group, divided among all male adults; and although when they receive it, a bigger portion goes to the nearest agnates of the victim, the remainder is distributed equally among all its members.

613 The genealogical depth of the Eila is usually five generations. This is not always true, however, In certain instances the number of generations intervening between the founder of the Eila and its living members is nine or even ten. Naturally, the more generations the larger the size of the Eila. Sometimes the Eila becomes so numerous that it is [217] hard to keep records of all members who are supposed to share in the payment of the bloodmoney in a specific case. When the size of the Eila reaches this point, one of two things may happen. The first is an attempt to make lists of the members. Many of the Eilas have such lists. This 613 675 is usually accompanied by a tendency toward writing down the specific rules and regulations of the vengeance group. These lists are referred to as Amar papers. They constitute a formal statement of an otherwise informally recognized responsibility of the group for certain actions of its members. The other is a tendency toward the fission of one or more of its constiuent units which, after separation, establishes itself as an independent Amar. The factors underlying this process of fission are discussed in the next chapter.

[539] The following is an example of an Amar paper, that of the Eilat Aggary, which was put into effect in 1954.

IN THE NAME OF GOD THE FORGIVER

613 675 539 The following Awaqil (sing. aqila, the leader of a bait) representing the various "buite" (sing. bait, the tribal segment below the level of eila) of the Aggary Family were witnesses to the treaty and their signatures signify their commitment and that of their respective buite to the content of this agreement.

(a list of the various awaqil)

The above signing awaqil agreed unanimously on the content of the document and all the conditions included. No objection by any of the above persons was noted at the meeting.

Article 1:

The content of this document should be kept as a secret of the Aggary Family. It constitutes the Aggary Amar in accordance with the customs and the Daraieb of Awlad Ali. The content of the document should be revealed only at the request of both parties of a dispute which involves a member of the Amar.

Article 2:

[627] Peace should exist between members of the Amar. No secret grudges or open disputes should be permitted between them. In case such an unfortunate situation exists, the other non-involved members of the Amar should intervene between the disputants, try to solve the dispute, and prevent it from damaging the solidarity of the Amar. They should investigate the facts of the case and force the guilty party to compensate his brother (the wronged party) without giving the former a chance to object.

Article 3:

[681] When the Amar is called upon because of obligation involving the payment of money, all the Awaqil should meet and decide the amount of money that should be collected from each Bait of the Aggary Family. It becomes then the responsibility of each Aqila to collect the amount from his Bait.

Article 4:

[681] [885] The share of each Bait is based upon the number of "Sayems", (literally, "fasting males", which is interpreted to mean 15 years of age or over), regardless of whether or not they have a source of income for themselves. The share of those without means of their own is distributed among the other members of the Bait.

613
675 Each Aqila is responsible for submitting to the Amar a list of the
539 Sayems in his bait, and this will be the basis for establishing the
[681] share of the bait in payment or receipt of the money.

[885] **Article 5:**

No Aqila can act on any matter involving loss or gain to the Amar without the presence of the other Awaqil of the Amar, unless an urgent matter occurs in which waiting for the rest of the Awaqil might jeopardize the interest of the Amar. In such cases the Awaqil present can act on behalf of the Amar as a whole.

Article 6:

[672] [673] The following acts should not involve the Amar as a whole and the offender is considered individually (or with his own Bait) responsible for them:

1. Theft and cheating.
2. Insult or disrespect of a younger member of the Amar to an older person whether from the Amar or not.
3. Entering someone's tent or home without permission.
4. Seduction of women (including rape and adultery).

[681] In all the above cases the individual has to bear the responsibility for his own actions. For to let the Amar pay for him in such circumstances is to encourage him and other such members of the Amar to commit more of such acts and bring disgrace to the Amar. If the offender is unable to pay for his crime, his nearest male kin should pay for him in accordance with the Awlad Ali Daraieb. Such payments are considered as personal debts which the offender has to pay back as soon as he is financially able.

Article 7:

[627] When an older person does injustice to a younger one, the latter should take his complaint to the Aqila of his own bait. The Aqila in turn should take the matter up with the Aqila of the older man or to all the awaqil of the Amar if the matter is serious enough. The awaqil must assess the facts and prevent the older man from doing any more injustice to the younger man and have the former compensate him for any damage he might have caused the younger man by his actions. If the awaqil fail to do this and if their failure resulted in the younger insulting or hurting the older, his acts become no longer an individual responsibility for which he has to pay alone, and the Amar should pay for him.

Article 8:

[627] No members of the Amar should take sides in disputes involving families or individuals outside the Amar unless the awaqil in the Amar investigate the matter and the reasons for the dispute and decide that the Amar as a whole should be on one side of the dispute or the other.

613 675 539 **Article 9:**

The Amar should never fight on the side of the wrongdoer, because if it does, it will have to pay with him for his wrongdoings.

Article 10:

[628] Any dispute or fight involving a member of the Amar and an outsider should be reported to the awaqil in the Amar who are supposed to take the matter up with the other party. If the awaqil are convinced that the outsider is the aggressor or that he is at fault, they should try to make him accede to the demands of the members of the Amar, using all their efforts to convince him and the aqila of his bait. [619] If he refuses, they should call him for a "Miad" (tribal meeting) in which all parties involved should be represented by their respective awaqil.

Article 11:

[563] [619] With regard to "iktitab" (tribal adoption), an outsider wanting to join the Aggary Family or one of its constiuent buite must be asked first about the reason or reasons for his desire to join. This must be done in order to know what kind of person he is and whether he will become a burden and liability to the Amar. If he proves to be of reputable standing, the aqila of the bait he wants to join can accept him without consultation with the rest of the awaqil. If on the other hand he is found to have grudges against someone or if someone has a financial claim over him, then the aqila of the bait cannot accept him without consultation with the other awaqil in the Amar. If all the awaqil agree to accept him, he is considered like one of the Eilat Aggary, having the same rights and bearing the same responsibilities.

Article 12:

A memberof the Amar who wants to separate himself from the Amar and get a "barawa" has to state his reasons beforehe can be released from the obligations of his membership in the amar. If his request to get the barawa was because of injustice he suffered by the Amar or any of its members, the awaqil have the duty to straighten the injustice and restore his rights. If, on the other hand, his request for the barawa was to avoid paying the Amar, then he cannot be released from his membership unless he pays all of his share, or else he must return all that the Amar has paid him until the time he asked for the barawa.

Article 13:

[695] [693] If one of the Amar is accused of an offense for which he is tried by the legal system of the state, the Amar as a whole share the expenses of hiring an attorney to defend him. This, however, is done after the awaqil are sure (by means of administering the oath) that he is innocent and that the accusation is false.

613 Written agreements such as the above are becoming more common in
625 the area. The need to have the responsibility of the vengeance group
[178] or the Amar recorded and the names of its members listed stems from the
[361] increase in the geographical mobility of individuals and separate households
[464] seeking jobs with the government organizations in the area or with
the various industries in the towns and cities outside the Western Desert.
233 The uncertainty of pastoral nomadism and the delicate balance which exists
178 between pastures, animal population, and human population is pushing an
182 ever-increasing number of people to abandon the way of life which they
had lived for generations. Animals are extremely important to sustain
233 the pastoral life of Awlad Ali. Once the balance between the pasture and
182 the animal population is upset by a draught, a segment of the human population
731 has to make new adjustments. This adjustment is first made by
166 moving with one's flocks to areas in the Delta or in the Cyrenaica region
of Libya. This is a short-term adjustment, however, and cannot be continued
for long periods of time. Pastures in the Delta have to be purchased,
and in most cases the owner of the herd has to sell part of his
[619] herd to feed the rest. The Cyrenaica pasture is very limited and restricted
by the strong tribal control of the Cyrenaica Bedouins, who in
general are not friendly with many of the tribal segments living in the
233 Egyptian Western Desert. If the draught continues beyond a certain time,
731 the individual owner of a herd may find himself forced to sell the herd
464 434 and seek other modes of subsistence in the form of part-time or full-time
182 employment as a semi-skilled or unskilled worker with the government or
industrial organizations. Such jobs are usually viewed as a temporary
source of income to help the individual and his immediate family live

233 through a hard year and to help him replace the herd he has lost. In
731 many cases a dry year is followed by another and many of these employed
464 find themselves depending more and more on their income from the jobs.
434 The security of the employment is often compared favorably with the uncertainty
182 of nomadic existence, and many decide to abandon the pastoral
life on a more or less permanent basis. But even when one makes such a
decision, he usually retains a strong affiliation with his original way
613 of life. He retains an active interest in the affairs of his Amar, especially
182 those from which he can benefit in one way or another. One important
682 gain he might get is through sharing in the receipt of bloodmoney
for the killing of any member of the Amar, and having the Amar paid in
his behalf. But while asserting their membership in the Amar at the time
of such distribution, very few, if any, would show themselves when the
membership of the Amar is called upon for the collection of bloodmoney
which the Amar has to pay for a murder committed by one of its members.
613 It is known in the area that members of one bait of the Aggary Amar (Bait
682 Ahmad) have never paid their share of the bloodmoney of the last twenty
578 years, but always claim their share in the distribution of bloodmoney.
Many members of that Bait claim that the Bait has long been separated from
the Aggary Amar, although this claim is denied by the rest of the Amar as
well as by those members of Bait Ahmad who claim their share in the receipt
of bloodmoney.

613 Disputes such as these, which are not limited to the Aggarty, led
675 many Amars to attempt to make comprehensive lists of all members of the
578 Amar and to require a written agreement in case of separation of a given
Bait from the Amar.

613 578 672 671 681 Another factor which led to the need to formalize the rules of the Amar was the increase in the kind of disputes for which there is no provision in the customary law of Awlad Ali. Such disputes arise mainly out of situations which are relatively novel to the area. A large number of these situations involve the relationship between the tribal population and the government authorities recently taking a major part in managing the affairs of the area. There were no rules in Awlad Ali law to guide decisions in cases involving financial liability of a member of the Amar in cases such as confiscation of smuggled goods, destruction of government property, or false testimony leading to the conviction of a fellow tribesman by the government authorities. The list of cases such as these is rapidly increasing. Many members of the Amar refuse to share in the payment of liabilities arising out of such cases on the basis that since no provision has been made in the customary law of Awlad Ali, then the Amar as a whole should not take corporate responsibility for such actions. They assert that corporate responsibility of the Amar is the exception rather than the rule and therefore, where there is no specific rule, the responsibility is an individual one. Others insist that it is the corporate responsibility of the Amar in such matters that maintains the Amar as a group and gives incentives to the members to retain their membership in the Amar, and therefore, should be the rule rather than the exception, covering any form of liability unless individual responsibility is specified.

613 672 675 This made it essential to specify in some kind of formal statement which liabilities are to be considered collective for which the Amar has to pay as a corporate unit and which are to remain as individual responsibility. This is done either by listing the cases of individual

613 responsibility, leaving any other situation a collective responsibility,
672 or by specifying the cases of collective responsibility, implying that
675 all other responsibilities are as a rule individual ones. The Amar paper
of the Aggary, for example, chose to list offenses for which the Amar is
not responsible, leaving the rest of the liabilities to be covered by the
Amar as a whole. This is not always the case. In some papers offenses
for which the Amar is responsible are the ones listed leaving the general
rule as the non-responsibility of the Amar.

613 It is in this respect that the Amar papers are considered an im-
671 portant source of legislation. Although the new rules incorporated in
675 an Amar paper start with the limited applicability to members of the
Amar, yet, as time passes and as these rules affect the relationship of
the Amar members to outsiders, one rule may acquire a wide practice and
become part of the customary law itself. An example of the point in
613 question is the rule regulating the payment of the bloodmoney in cases
671 where the murderer is tried by the state courts for the same crime. In
675 cases of arrest of the murderer by the government, only half the blood-
682 money is paid and the other half is withheld until the trial is over. If
the killer is acquitted by the court, then the other half becomes imme-
diately due for payment. If, on the other hand, as mentioned before, the
killer is convicted, half the bloodmoney is postponed until the person
completes his sentence and is released unharmed and with his full senses.
If he dies in prison or sustains an accident which affects his physical
or mental capacities, the rest of the bloodmoney is automatically dropped.
This rule was first included in a number of Amar papers, especially those
of the Eilat of Awlad Kharouf tribe. In less than twenty years since it

613
671 first appeared, the rule has become a practice so common that other Amars
675 find it unnecessary to specify it in their own papers.
682

Another new rule which is in the process of acquiring a great amount
613 of consensus among the tribal population of Awlad Ali is that of the re-
672
675 sponsibility of the Amar for the payment of the lawyer's fees for members
[693] of the Amar who are tried by the government (Article 13 of the Aggary
[695] papers). Another less agreed upon rule is that of the responsibility of
613 the Amar for the financial losses caused by the confiscation of smuggled
672 goods or the payment of money for the destruction of government property
675
439 by a member of the Amar. Where smuggling is an important source of in-
[434] come for the group, Amar papers usually include rules making it a corporate responsibility; other Amar papers, especially those of tribal segments not deeply involved in smuggling, make it an individual responsibility, while still others leave it intentionally with no specific rule, as in the case of the Aggary Amar paper.

613 The Aggary document is a relatively elaborate one. Not all Amar
[675] papers, or at least the ones I had a chance to examine, are as detailed.
[131] Eilat Aggary is the largest Amar in the area of Dera'el Bahari, which
extends from Alexandria 60 miles westward to the town of Alamein. The
613 distinctive characteristics of the Aggary Eila is that it is composed
563 mainly of peasant groups who joined the Aggary by means of tribal adop-
619 tion. Of the 16 Baits constituting the Aggary Amar, only three are believed to be Awlad Ali proper. The attractiveness of the Aggary for the peasant groups seeking to be adopted by the tribal population of the area may be partly explained in terms of the location of Eilat Aggary in an area relatively close to the Delta from where these groups usually migrate.

613 This makes it possible for those adopted by the tribe to keep in touch
563 with their relatives and friends they left behind in the Delta while en-
619 joying the military exemption gained from their adoption by the Awlad Ali population. It is also believed that Eilat Aggary, made up mostly of peasants themselves, are very lenient in the conditions they put for tribal adoption. Finally, the Eilat Aggary is not among the most powerful tribal segments of Awlad Ali, possibly because of their composition. This assures the adopted peasant groups an equal status not normally obtained if adopted by one of the powerful tribal segments of Awlad Ali.

613 The Amar paper of the Aggary explicitly states some of the basic
[675] characteristics of the Amar as a unit in the tribal organization of Awlad Ali. The most distinctive aspect of the Eila or the Amar as a political unit is the absence of any formalized leadership. Although the Amar is viewed by outsiders as a corporate group as far as its legal responsibility in certain cases, from the standpoint of its members, the Amar is no more than the sum total of its constiuent units or Baits. This is shown in the Amar paper of Aggary which states that matters affecting the Amar be decided upon by all the bait represented by their respective leaders, the awaqil. There is no formalized authority above the
613
554 awaqil, although one of the awaqil might acquire a position of informal
627 leadership by virtue of personal or other qualities. He will be considered as a mediator and go-between for the various leaders of the Baits. In the case of the Aggary, Sheihk Selouma, the Aqila of Bait Eweida, has acquired such a leadership among the Eilat Aggary. Although Shiehk Selouma is relatively young, (he is about 40 years old), he has the reputation of getting things done. His Bait is the wealthiest in the

His Bait is the wealthiest in the
613 Aggary and he himself has recently acquired a great amount of wealth,
554
627 mostly from smuggling goods across the Libyan borders. Because of his
[556] position as a Government Sheihk, he is believed to have influencial con-
nections in the government. He is the only member of the Aggary Amar
who has a car. He considers himself to be the spokesman of the Aggary
Family, and he is known to be able to persuade the reluctant awaqil to
conform to decisions made by the rest of the awaqil. In a number of in-
[682] stances he was able to collect bloodmoney from members of the Amar who
had previously refused to pay. Some people in the area believe that had
it not been for the persuasive abilities of Sheihk Selouma, the Aggary
Amar could never have persisted, and it would have long ago been divided
into smaller units due to the lack of agreement among its members. The
613 lack of formalized leadership of the Amar or the Eila makes consensus of
extreme importance for the Amar. The emphasis on the unity of the Amar
[675] is stated in Article 2 and is implied in a number of other articles in
[578] the Amar paper of Aggary. Disagreement among the awaqil is very rare al-
613 though not unknown in the area. The relative consensus among the awaqil
682 stems from the fact that the Amar as a group has a fairly limited function.
[182] Until very recently the only practical function of the Amar was the collec-
tion of money to pay for a murder committed by one of its members. Since
establishing the innocence or guilt of the accused is not the duty of the
Amar, once his guilt has been established, there is no question about
613 the payment. Disagreements are likely to occur in the case of new circum-
682 stances where money has to be paid, since payment in such cases are not
578 yet institutionalized, even when specified in a given Amar paper. This
000 has not yet become a major problem. If any disagreement between the

613 If any disagreement between the
578 responsibility of the majority of the awaqil to persuade the minority to
571 conform to the majority's decision. This is usually done by simple per-
613 sonal persuasion. In certain instances, however, when a particular aqila
554 is known for being troublesome to the Amar, refusing to abide by the ma-
571 578 jority decisions, an attempt may be made by the others to build up pop-
ular support around another person in the Bait which the aqila represents.
If this strategy is successful, it might lead to replacing the aqila by
another who is more abiding to the Amar's decisions. This approach is
more likely to succeed if the aqila is not a popular person in his own
Bait, for if he is popular, any attempt by the other Baits to disqualify
the aqila would be viewed by the members of his Bait as interference in
their own affairs and might lead them to rally even more strongly around
their leader.

613 The other tendency occurring when the size of the Eilat increases
is toward the separation of one or more of its constiuent Baits. Origi-
613 nally this was done by merely refusing to share in the payment of blood-
682 money. If this refusal continued, it was considered as a sign of
[178] separation of the Bait. In recent years this created problems with an
increasing number of individuals claiming separation from the Amar to
avoid the payment of the bloodmoney, while claiming membership when dis-
613 tribution is done. This led many tribal segments to require that the
675 "barawa" or separation of individuals or tribal units from any particular
Amar should be put in writing, after getting the approval of the Amar to
which he belonged. When the approval is given and the separation in put
in writing, it is announced to all other tribal segments. If this is
[672] done, members of the separated tribal segment are not held responsible

613 [675 672] for the actions of the members of their former Amar, nor is the Amar responsible for theirs.

Units thus separated establish themselves as separate Amars. These units are commonly referred to as Eila, thus retaining the structural label of the higher order of segmentation. This is not always the case, however, and other segments may refer to them as Baits rather than as Eilat. This explains, at least in part, the tendency toward blurring the formal scheme on the next level of segmentation, that is, of the Bait, and may account for the variable meaning of the term Eilat itself.

The Bait

While the Eila or Amar-el-dam is the most important political unit by virtue of being the vengeance group and therefore, the individual's major support group, it is the Bait that constitutes the most visible political unit.

613 423 The Bait is the only corporate land-holding group. While the Eila is usually associated with a certain geographical locale which it considers as its homeland or "watan", it rarely, if ever, utilizes this land as a corporate unit. Instead, the land is divided among the various Baits constituting the Eila. The land of the Bait is not divided and each member of the Bait can, at least theoretically, cultivate or graze on any part of it.

613 But the one important characteristic of the Bait which distinguishes it as a political unit is the existence of a formally recognized leadership in the position of the Aqila (lit. wiseman). The Bait is the only structural unit with such formalized leadership. The Aqila is responsible for all members of his own Bait whose number varies from 20 to 60

613 [627] individuals. He settles disputes among them and represents them in their disputes with outsiders. He is also the spokesman of his Bait in all matters involving the relationship of the Bait with the other tribal segments. [682] He is responsible for the collection of the bloodmoney from members of his Bait and has the authority to confiscate property of individual members who refuse to pay their share. When a member is financially unable to pay his share, the Aqila is expected to pay for him and collect at a later time when the member is in a position to make such payment.

613 428 178 Originally the position of the Aqila was a hereditary one with the position passing from father to son. However, in recent years the rigidity of the patrilineal descent as the basis of succession to the position of the Aqila has been modified radically and other principles of selection have been introduced. 613 128 The working of the principles underlying the selection of the Aqila will be analyzed in detail in the following chapter through the close examination of one of the major legal cases which occurred during my stay in the area.

613 [423] Thus each Bait is a division of one of the Eilas and this has its place in the formal tribal system. It constitutes a group with definite usufruct rights to land and a formally recognized leadership.

621 [613] But the actual residential units in which Awlad Ali live are not baits but parts of them in the form of separate camps or "nagei". The camps constitute the primary communities of Awlad Ali. A camp consists [594] of a number of tents ranging from four to twelve. Each tent is usually occupied by one nuclear family of a husband, his wife and children. In [595] cases of polygynous marriages, each wife usually occupies one tent with [361] her children. Each camp is separated from the next one by a distance which ranges from two to ten kilometers.

621 which ranges from two to ten kilometers. The camp coincides with the
233 herding unit. The herd of the camp is usually grazed as a unit, often
621 by a paid shepherd hired by the members of the camp as a whole. Originally
233 the camp moved as a unit for grazing. This was essential in the
621 361 era of the tribal warfare and raiding where the security of the herd
178 and that of the people depended on such collective movement. In a type
of organization adapted to periodical movement, the camp offered the
optimum sized community: small enough to permit easy movement and large
enough to offer the kind of protection which individual families could
621 not have offered. In this era the camp seemed to have been a closely
178 knit group. Many of the informants still remember the time when the
622 361 camp was under the strong control of the headman who made the major decisions
233 of where and when the camp should move. It was those decisions
that determined the safety and the security of the group. The headman
had strong authority over members of his camp. Such authority was based
mainly on his ability to exercise valid judgments as to whether or not
the group should move and the route that it had to take if movement was
decided upon. At the present time, and with the diminishing of raiding
and tribal warfare in the area, the authority of the headman seems to
have diminished along with it. The camp appears at the present time to
be mostly a residential unit with minimal leadership and with a rapidly
changing composition. Different families join the camp at different
times during the year.

621 Although the membership of the camps is drawn from the bait, a camp
613 does not, in terms of its genealogical composition, make up a descent
segment of that Bait. The membership of a camp is based on a completely

621 different principle from the principle of patrilineal succession characteristic
613 of the bait and all other units on the higher levels of tribal
segmentation.

Some of the camps I visited were composed of three patrilines, while
others contained individuals belonging to five patrilines. In some camps
each tent belonged to a different patriline, some of which did not even
belong to the same bait. The composite nature of the camps is particularly
clear in the case of what the people in the area called "nagei
gheir aseil" or the artificial camp. This kind of camp is usually found
near the towns and settled communities of the area. They include one or
two tents of individuals belonging to the bait whose land the camp is
built one, and who give the camp its name, but the rest of the tents are
occupied by individuals from different baits or even tribes and also by
621 outsiders who came to work in the area. Such a camp does not act as a
unit for any purpose. It has a rudimentary structure, and is held together
by mere physical proximity of its members which stems from the
need of "wanas" or togetherness. The composition of the artificial camps
is highly changeable with new members joining and others leaving throughout
the year. When I joined the camp of Ragi from the Sanagra tribe, it
consisted of twelve tents. Four of the twelve tents were occupied by
[563] Sheihk Ragi (two tents for the two wives) and his two married sons, five
occupied by members of tribal segments other than Sanagrah, and four by
workers who came from Alexandria to work for the government project in
the area. One week after I joined the camp another tent was added to
[563] the camp. It belonged to a man from the Geneishat tribe of the Natruh
area. He came with his wife to work on the new irrigation project which

621 563 had started in the area at that time. No special permission was required for the newcomer to join the camp. He only got the permission
of the person whose tent was at the far end of the camp to put his tent
[574] next to it. The first night after the man joined the camp, his next
door neighbor slaughtered a goat in honor of the new member and invited
all members of the camp.

621 Leaving the camp also does not require any permission, although the
622 custom specifies that before one leaves he should inform either his
[576] neighbor or the headman of his time of departure. With the exception of
[613] cases where the headman of a particular camp is at the same time the
Aqila of the bait, the headman of the camp has no authority over the members of the camp. He is usually called upon to solve minor problems be-
622 627 tween brothers or husband and wife, or give his opinion in decisions of
minor importance. "A headman is like a father," said one informant, "we
call him kabir el-nagi (the old man of the camp)." When a member of the
627 613 nagei is involved in a serious dispute with another, the one to handle
the case is the aqila or awaqil to whom the two disputing parties belong.

	Group	Leadership	Identifying aspects
619 613	Kabila	None	Client groups attached.
621	Eila	None	Vengeance group, Vaguely defined tribal land ("watan").
	Bait	Aqila	Corporate land-holding. Formally recognized leadership.
[622]	Nagei	Headman	Residential unit with unsegmented structure.

CHAPTER V

POLITICAL LEADERSHIP AND JUDICIAL PROCESS

69 One of the most idstinguishing aspects of the legal system of Awlad
627 Ali is the absence of any formalized judicial structure. Disputes are
628 solved mainly through the mechanism of informal mediation rather than through formal hearings of a court during which the facts of each case are presented and judgment based on the facts is passed. This does not mean that formal hearings are not known on the area. For the "Mi'ad" or tribal hearing is a common and very important practice in the tribal proceedings. The Mi'ad, however, is not a tribal court. It is merely a gathering of all interested parties and anyone else who wished to attend, in which the agreement reached behind the scenes by means of negotiations are announced.

628 The first Mi'ad I attended was held in the house of Sheikh Mughaieb,
613 the Aqila (tribal leader) of bait Mughaieb of the Sanagrah tribal segment
683 in the area of Hammam, 60 miles west of Alexandria. The case that was to
[114] be settled at the Mi'iad involved the assaulting of Sheikh Mughaieb ty two younger members of bait Dauoud who lived in a nearby camp. The dispute started when Ali, the youngest brother (14 years old) of the two assailants, found a piece of iron in the desert. Suspecting that it was a mine, he took it away from the camp to the small garden in the backyard of Sheikh Mughaieb's house, surrounded it with dry weeds and set fire to it. The piece of iron was in fact a mine and it exploded, damaging the trees and a window on the Sheikh's property. At the sound of the explosion Sheikh Mughaieb rushed out and found the boy trying to run away from

628 683 613 the area. He caught him and slapped him and ordered him not to do it again. After a short while the boy returned with his two older brothers who protested Sheikh Mughaieb's hitting their younger brother. The argument developed into a fight during which the two brothers hit Mughaieb with a heavy stick over his head making him unconscious.

The Mi'ad was held two weeks after the incident. When I arrived at Sheikh Mughaieb's house, the meeting was being held in the guest room in the back of the house. Present at the meeting were Sheikh Mughaieb, his father, two distant relatives of Mughaieb who were visiting the area at the time; Sheikh Mutair, the Aqila of the powerful bait of Mutair located some twenty miles east of Mughaieb; the two assailants, their father who at the same time was the Aqila of their bait, and two neighbors of Sheikh Mughaieb.

[576] For the first half hour or so nothing was said. People were sitting silently except for occasional greetings of "how are you?" and the response of "thank God for everything". Tea was served frequently. Then [779] Sheikh Mutair addressed the gathering and read the "fatha" or the beginning passage of the Qoraan (which appeals to God to show his right ways to the believers and to guide them to wisdom). He then said, "In the blessed presnece of all these honorable guests and with the help of God and his prophet we will clear the hearts of those concerned of the grudges caused by the shameful and unfortunate incident in which the devil has played a major role." Then Sheikh Karim, the Aqila of the bait to which the accused belonged, continued the speech saying that this shameful thing should never have happened and that his sons must [867] have been possessed by the devil to have done it. After all, they have been brought up to respect their elders and especially Sheikh Mughaieb, who was like a second father to him.

628 683 613 [576] who was like a second father to them. He praised Sheikh Mughaieb for being understanding. He then said that Sheikh Mughaieb was very generous and that his sons had come to Mughaieb the day before and kissed the top of his head (an expression of respect for forgiveness). He said that no money, no matter how great, could erase the harm done by his sons but that he had offered to pay Sheikh Mughaieb the sum of 400 pounds as "kabara" or face-saving compensation. (The kabara will be discussed in a forthcoming chapter, but for the time being it is worth noting that the above amount is the maximum for such compensation since it equals the bloodmoney for a man). Then he turned to Sheikh Mughaieb and asked him to accept it in front of the respected guests. Sheikh Mughaieb then spoke for the first time and said that the two boys were like sons to him and that he had no hard feelings toward them anymore, since he believed that young people were sometimes carried away in their actions. He then proceeded to say that in honor of the honorable guests who took the time to attend the hearing he was forfeiting half the amount. At that time a woman brought the food the women were cooking for the gathering, and Sheikh Karim asked Mughaieb, "How about the honor of the good women of the house who have done all the work and cooked all the food? If you ask me, they deserve at least another hundred pounds." Mughaieb said, "All right, fifty pounds for the home of the women, but no more." After that Sheikh Karim paid the amount of a hundred and fifty pounds to Sheikh Mughaieb and shook hands with him. He also shook hands with the two young men who had assaulted him, and the gathering started the dinner and tea.

627 628 Not all Mi'ads in the area proveed with that smoothness. Many of them are characterized by shouting and arguments and frequently no .

627 agreement is reached. In fact, later one of the people attending said
628 that my presence made everything run smoothly in that particular Mi'ad
[123] because they felt that they should show me how peaceful Awlad Ali were. This was mainly supported by my own observation of other Mi'ads, some of which are described later, where parties were less understanding of one another and where no forfeiting of any part of the compensation occurs. This is particularly true when the Mi'ad is held to acknowledge the failure of the negotiators to reach an acceptable agreement among the parties.
[681] This is also true when one of the parties to a dispute denies the charge and insists on not paying any kind of compensation. In such cases the Mi'ad is held to decide upon a different course of action, usually the administration of the oath, as will be discussed later in the chapter.
[182] Despite its typical nature, the Mi'ad described above exemplifies the nature of the Mi'ad and its purpose as a process of making public what has been achieved in private negotiations. No evidence is presented and evaluated in the Mi'ad, no hearing of witnesses, no passing of judgment based on the evaluation of the facts of the case. Actually, the facts of the case are never presented and a person who is not acquainted with them before hand has no way of learning what the dispute is all about by merely listening to the discussions of the Mi'ad.

628 The key role in the process of mediation in dispute settlements is
613 done by the Aqila or the leader of the bait. When a dispute occurs between members of different baits, each party goes to the Aqila of his bait who takes immediate steps tomeet with the Aqila of the other party and discuss the matter with him in an attempt to reach a settlement. He acts as a representative of members of his bait and defends their interests in

628 the settlement achieved. In many such interest is best served by taking
613 into consideration the welfare of the other party to the dispute as well.

613 Reasonableness is an important prerequisite for the success of the
554 Aqila in performing this functions in dispute settlement. This is true
157 whether the Aqila is dealing with disputes between members of his own
bait or between members of his bait and outsiders. But while reasonable-
ness and the personal qualities constitute important assets for the Aqila,
613 they are not the basis of his political authority. Proven abilities are
554 admired but they are, or had been until very recently, irrelevant to the
178 question of succession to the position of Aqila. The structurally signi-
ficant source of the Aqila's authority is patrilineal succession. This
principle has recently been challenged under the impact of social and
economic changes that are taking place in the area. To analyze the role
121 of the Aqila and the source of his authority, I shall utilize, to some
613 extent, Turner's concept of "social drama" by presenting and analyzing a
128 case of dispute whose developmental stages happened over a period of more
than eleven years. The major part of these developments occurred at the
time of the field work and I had a chance to observe at lease part of it.
The case in all its phases offers a rare example of a disturbance that
happened in the social life of a particular tribal segment. It offers
what Turner called "... a limited area of transparency in the otherwise
opaque surface of regular, uneventful social life" (p. 93). The politi-
cal unit involved is that of bait Asabe'i, the largest in size of all
baits in the Aggary Eila. As events of the case unfolded themselves,
some of the important principles of social structure, at least as they
operate at a given point, were revealed.

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EILAT AGGARY AND ITS CONSTIUENT BAITS

BAIT	NUMBER OF ADULT MALES (Sayems)[1]	AQILA
Eweidha (El-Burg)*	28	Ta'eb
Eweidha (El-Alamein)*	31	Selouma
Yusef**	30	Suliman
Helleis	22	Hussein
El-Asabei'	56	Shei'eb
Abdel Hamid*	20	Haj Musa
Risq**	30	Yadem
Afash	25	Nayer
Daghas**	25	Daghash
Bul-Yazid*	21	Haj Shousha
Makhyum**	23	Abdel fattah
Hussein**	17	Masri
El-Ramly**	25	Salem
Rashwan**	30	Rashwan
Attya*	31	Masu'd
Abdella*	22	Abdel Galil

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[1] Numbers are taken from the Amar list which is used to distribute the amount of bloodmoney on the various baits. An adult male or "sayem" is anyone 15 years of age or older. The word "sayem" means fasting individual and the age of 15 is when a child is forced to observe the duties of fasting.

[885]
[785]
[619]

** Refers to adopted tribal segments (Muktatibeen).
* Baits of doubted origin. Some claim these baits are adopted, while others insist that they are Awlad Ali proper.

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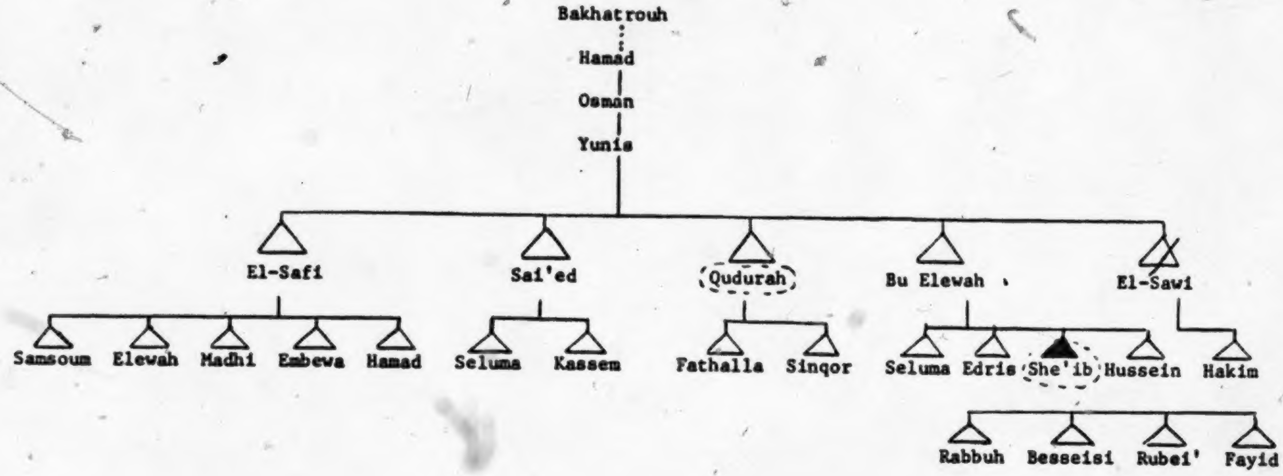
613

BAIT EL ASABEI'


Bakhatrouh
Hamad
Osman
Yunis
El-Safi
Sai'ed
Qudurah
Bu Elewah
El-Sawi
Samsoum
Elewah
Madhi
Embewa
Hamad
Seluma
Kassem
Fathalla
Sinqor
Seluma
Edris
She'ib
Hussein
Hakim
Rabbuh
Besseisi
Rubei'
Fayid

PHASE I

613 578 682 [464] In September of 1956, Mansur from bait Eweidha of the Aggary Eila, who works as a driver in one of the government projects in the area, went to Alexandria with a friend, a member of the Gemei'at tribe. In one of the bars there, Mansur got drunk and entered into an argument with his friend. The argument turned into a fight during which he hit his friend with a broken bottle. Two days later, the friend died. A settlement was made between Mansur and the victim's family and bloodmoney was established at L. 300.

613 682 683 Two weeks after the above incident, the same person, Mansur, was driving the government car on his regualr duty when he ran over two members of the Sanagrah tribe who were sitting on the side of the road, killing one and breaking the leg of the other. Another settlement was made with the families of the victims. The bloodmoney for the dead man was established at L. 300 and another L. 50 was set as the compensation for the broken leg of the other man.

The total sum of compensations in the two incidents was divided among the sixteen baits constituting the Aggary Amar. The share of each bait was decided in proportion to the number of adult males (sayems) in each. The share of bait Asabei' alone was established at about L. 100.

613 682 683 672 558 As the Aqila of Bait Asabei', Shei'eb was responsible for collecting the money from members of his bait. But for the following six months he was unable to collect from any member of his bait, including Sheikh Hakim, Shei'eb's cousin and the wealthiest person in bait Asabei' and the Aggary Amar as a whole. Most of them gave the execuse that it was a bad year and they had lost most of their herds. When the money was not collected,

613 the victims' families sent their representatives to demand that the money
682 be paid. To face the situation, a meeting of all the Awaqil of Eilat
683 Aggary was called and Sheikh Selouma, the Aqila of bait Eweidha, took the
672 responsibility of notifying the other Awaqil. The meeting was held in
558
[115] the tent of Hemeida (my driver and informant) from the Sanagrah tribe.
Each bait was represented by its Aqila with the exception of bait Asabei', from which both Shei'eb and Hakim were present. Since bait Asabei' was the only bait which did not submit to its share of the bloodmoney, the discussion centered around the inability of Shei'eb to collect it. In a gesture which he meant to appear as helping out Shei'eb, Hakim offered to pay not only his share but that of all members of bait Asabei', and followed his offer by handing the money to Sheikh Selouma. After this act which was a complete surprise to Shei'eb, Sheikh Slouma, the Aqila of bait Eweidha, suggested that Hakim should be considered as the Aqila of bait Asabei' instead of Shei'eb, who had demonstrated his inability to collect from members of his own bait. He emphasized the fact that he had nothing against Shei'eb who had legitimately acquired his position as Aqila by means of succession. But he insisted that the survival of the Amar depended upon the fulfullment of its financial obligations to outsiders and that Hakim was wealthy and could pay. Shei'eb did not comment and the rest of the Awaqil nodded indicating their agreement with Sheikh Selouma.

[124] The above is the summary of events that happened before I came to the area, and which were told to me by informants including the parties involved. Since most of these events occurred more than ten years ago,

613 682 it was impossible to verify the actual facts or to know what exactly
683 happened. But since the parties involved are still alive and since these
672 events are closely related to present-day happenings, the case is still
558 alive in the minds of the parties involved as well as those of outsiders-
(124) Naturlaly, each party tries to present the facts in such a way as to
613 682 support his own claims. Shei'eb, for example, insists that Hakim had
683 bribed members of bait Asabei' to refuse to pay their share in order to
156 embarrass him and make him appear as unable to perform his duties as
558 Aqila. "Hakim always had his eyes on becoming the Aqila of bait Asabei'," said Shei'eb, "but he had no business becoming the Aqila, so he had to make me look bad to the other Awaqil.... He likes to be looked up to as a big man, but it wouldn't work." While other members of bait Asabei' deny that Hakim had bribed them, they agree with Shei'eb that Hakim is a
156 dishonest man. In fact, Hakim's reputation is so widespread in the area
551 that it has earned him the nickname of "the thief". The nickname was
788 given to him a few years ago when he went to Mecca for a pilgrimage with
685 another fellow tribesman. The latter told the story that while in Mecca Hakim had found a purse with two hundred pounds in it. He was supposed to return the purse to the authorities or it would be considered as stealing if he kept it. Stealing in Mecca is not only a crime but also a great sin which makes the holy trip void for the offender. Hakim told his companion that he had given the purse to the authorities. But later, on their way back from Mecca, the friend found the purse hidden in Hakim's luggage. When the story was known in the area, he was referred to as
156 "the thief". Other accounts of Hakim's dishonesty are told throughout
685 the area, including stories of how he acquired his wealth through stealing
439

156 equipment from the government projects and from smuggling sheep and merchandise
[685] [439] across the Libyan border. Although some of these stories might
be exaggerated, they all point to the fact that Hakim, despite his wealth,
is not the most popular or reputable individual in bait Asabei', and that
although Shei'eb is not a popular individual either, he definitely comes
up the winner in any popularity contest between the two. The question is
156 why Hakim was selected by the Awaqil to replace Shei'eb. The case involved
613 more than Shei'eb's inability to collect the money from members of
558 his bait. Shei'eb's ineffectiveness seemed to have been taken as an excuse
682 683 rather than as the direct cause. Many Aqaqil, before Shei'eb, had
failed in collecting money from their own bait without being subject to
direct challenge. What seems to be involved is more than a challenge to
a particular member, Shei'eb. It is a challenge to the whole principle
by which Shei'eb acquired his position as Aqila of bait Asabei': patrilineal
succession.

156 Shei'eb is the youngest of four sons of the former Aqila of bait
159 Asabei', Sheikh Elewa. For more than fifty years Sheikh Elewa was the
613 undisputed Aqila of bait Asabei'. He also had considerable influence
463 683 among other tribal segments throughout the whole of the Western Desert
554 by virtue of his position as "nazzar", that is, the expert who assesses
the amount of compensation for wound inflicted in a liable case. The
[428] position of nazzar is a hereditary one and had been handed down from
[779] father to son. The basis for his assessment of wounds are a number of
old books believed to be obtained from Mecca and contain all the judgments
of famous Islamic leaders in their assessments of wounds.

[428] Eleven years ago when Sheikh Elewa became blind and too old to

156 exercise his functions, he invited all the important people in the area
159 into a large gathering during which he announced that he was handing the
613 sacred books to Shei'eb, who was to become the nazzar and also to succeed
463 683 him as the Aqila of bait Asabei'. Although at that time Shei'eb was
554 fairly young, twenty-six, nobody questioned Sheikh Elewa's decision.
428 (079) "He is the Aqila," said one informant, "and he has the right to decide
which of his sons is to succeed him. After all, he knows his sons better
than anybody else and knows which one is best for the job." Most people
156 thought that Sheikh Elewa, being still alive and with clear thinking,
159 613 would help Shei'eb in performing his duties as Aqila. A few months after
554 Shei'eb took over his father's position, it became apparent that he was
578 too immature for the job. He tried to use his position to take money
[661] from members of his bait and when they refused to give him any money, he
entered into fights with a number of them. Rumors spread that he took bribes from the disputing parties who came to him for him to assess the legal compensation for wounds to raise or lower his estimate. But still people within bait Asabei' as well as outside it respected Sheikh Elewa's decision and did not challenge Shei'eb openly. But as time passed the dissatisfaction with Shei'eb grew. This dissatisfaction came mainly from members of the Amar who were affected directly by Shei'eb's actions, especially those actions which resulted in the payment of compensation for wounds inflicted in fights.

PHASE II

439 On the evening of May 16, 1966, two members of the Geneishat tribe of Matruh area came to Burg-el-Arab with a large shipment of smuggled cigarettes to leave with their partner in the area, Hadi, from the

439 Aggary Eila. When they arrived with the cigarettes, Hadi was not at his tent; he was in the market of the nearby town selling sheep. They left the cigarettes and left for Alexandria to arrange for their distribution. In Alexandria they met Rabbuh Hakim, the son of Hakim, who married a girl from Alexandria and lived there. He made his income from buying smuggled goods at wholesale prices and selling them at a profit. When he met the two members of the Geneishat tribe and learned from them about the shipment they left at Hadi's place, he wanted to buy it. But they refused on the grounds that Hadi had already contacted someone and that all they could do was to give the first option to that individual. Two
439 hours after the conversation between Rabbuh Hakim and the Geneishat, the
625 police officer on duty at the station of Burg el-Arab received an anonymous call from Alexandria informing him that a shipment of smuggled cigarettes worth more than three thousand pounds was hidden in Hadi's olive mill (which was not in use at that time). The call was overheard by a member of the Sanagrah tribe who works as a detective with the police. He tried to warn Hadi of the police raid but it was too late. The officer found the cigarettes in Hadi's olive mill in the exact place where the informant said they would be. The cigarettes were confiscated and Hadi was arrested and later released when the officer didn't find enough evidence to prove that he knew about the shipment or that it belonged to him.

685 The confiscation of the cigarettes enraged both Hadi and his part-
627 ners. They went to Sheikh Ta'ib, the Aqila of bait Eweidha to which Hadi
578 belonged. They told him about their conversation with Rabbu in Alexandria and said that they thought he was the one who informed the police about the shipment. Ta'ib said that Rabbu must have done this because of old

685 grudges that he had against Ta'ib when the latter dissolved the partnership
627 which had existed between them for more than ten years, because of
578 Rabbu's attempt to cheat Taieb in dividing the profit gained from smuggling goods. They asked Sheikh Ta'ib to be their mediator to Sheikh Hakim and his son. Ta'ib went to Hakim himself and informed him of the accusations directed against his son and asked to arrange for a "Mi'ad" or legal hearing. Hakim agreed and told Taieb that his son accepted Taieb as a mardi and would abide by whatever decision he made. After that both parties to the dispute wrote specifying their agreement on Taieb as a mardi and all signed it. (It is not customary to write the agreement on the mardi but Taieb insisted on that on the grounds that he did not trust Hakim or his son and that several times they had backed down on their promises). The Mi'ad was held and all interested parties attended. It lasted only half an hour, most of it spect drinking tea. Nobody presented his case or any facts related to it since both parties had apparently discussed it earlier with Taieb. The only one to speak was Sheikh Taieb. He stated that Hadi and his partners believed that Rabbu had informed the police which caused them to loose merchandise worth
685 more than three thousand pounds. He also said that the accusation had
627 been denied by Hakim on behalf of his son, after having his son swear by
578 the Qoraan that he hadn't informed the police. Then in the traditional
695 phrase, Taieb said, "I therefore follow the Awlad Ali Daraieb and make
[671] the judgment to the oath. Rabbu will have to take the oath supported by fourteen male members of his bait to be selected by the Geneishat." He added that he had discussed the matter with both parties before announcing it and that both had agreed to it.

685 The Geneishat selected the tomb of the saint where the oath was to
627 be administered. According to the customary law of Awlad Ali, the plain-
778 tiff is the one to decide which saint is to be sought for the taking of
695 [671] the oath by the defendant. Each saint has his own reputation and some
[776] are said to be more effective in certain kinds of disputes. The saint
selected in this case was Sidi Dmain. Sidi Dmian's tomb is in the
Beheira province some 60 miles east of the area of Burg el-Arab. He is
[732] known to cause the blindness of those who dare to swear falsely by him,
[784] and at least four cases of blindness in the area have been attributed to
[671] false oaths at Sidi Dmain. Also according to the law, it is the plain-
tiff who selects the persons from the defendant's kin unit who are to
685 support him in the oath. Following this rule, the Geneishat, with the
627 help of Hadi, selected the fourteen men from bait Asabei to swear with
695 Rabbu. The number of men that were required in this case was considered
613 very conservative. The usual practice in estimating the number of sup-
[803] porters in any case is done by establishing the value of the damage or
compensation and dividing it by ten. The result is the number of men
needed to give the oath. If there were not enough adult males in a given
kinship unit to fulfill the number needed, some or all the men would
have to be sworn twice or three times and each time a person takes the
oath he is considered as a separate person until the number needed is met.

Following this rule, and since the value of the property confiscated in the above case was over three thousand pounds, 300 persons should have been sworn in support of Rabbuh. Since this would have complicated the matter greatly, it was agreed that fifteen men were enough. Taieb gave the justification for limiting the number to 15 that trade and, as

685 such, deviates from the normal pattern of cases dealt with by the customary
627 law in the conventional way. The men selected by the Geneishat
695 included, in addition to Rabbu and his father Hakim, Shei'eb and his
613 three brothers, Hakim's cousin Samsoun and his four brothers and Hakim's
uncle Sheikh Qudura and his sons. The date of the oath was set for June
tenth. Two days before, the two parties involved in the dispute invited
a number of the important people of other tribal segments in the area to
[492] be witnesses to the oath. All involved started to travel to the tomb of
[494] Sidi Dmain, some on donkeys, others by bus or train. At six o'clock on
[497] the morning of the oath everybody gathered in the courtyard outside the
[778] tomb of the saint. The granddaughter of the saint works as a mediator
[787] between the spirit of her grandfather and his followers announced that
[776] the saint was ready for the oath and everybody went inside preparing for
the oath. Before the oath was taken the Geneishat asked Hakim if his son
and the fourteen men they had chosen were present and Hakim said they
were. Since the Geneishat were from a different tribal segment and
lived outside the area, they had no personal knowledge of most of the
[212] men who were to take the oath. Knowing the reputation of Hakim they
asked the men to present their identification cards to check them against
[747] the list they had. At that time Hakim said that some of the men didn't
have identification cards because they had not applied for aid from the
World Food Program. Then the Geneishat demanded that those without cards
should be identified by members of other tribal segments who had come as
witnesses. Hakim refused and then admitted that one of the men was absent
and that he had put another in place of him. But when the Geneishat
learned that the one to be absent was Sheikh Qudura, they insisted that

685 no one else could take his place. They were mainly angry at Hakim's
627 attempt to cheat them and refused Hakim's offer to substitute ten men
695 for Qudura. The temper of the meeting was becoming very tense; then
613 [578] Taieb, who was working very hard to achieve a settlement between the
disputants, took the Geneishat aside and tried to convince them to accept
another man instead of Qudura. When he found that to be impossible, he
asked them to agree to a postponement of the oath until they saw what
prevented Qudura from coming as he had promised. The Geneishat agreed
to the postponement because of the absence of one of the men to swear.
[671] According to Awlad Ali Daraieb, if one of the individuals to take the
oath fails to show up in the saint's tomb for any reason or if he comes
but refuses to take the oath, the whole case for the defense fails, and
the judgment is awarded automatically for the plaintiff. In this case
the Geneishat were entitled to immediate compensation for their confiscated goods. Nobody knew the reason that led the Geneishat to forfeit
their right to immediate compensation and to give Hakim and his son a
second chance despite their intense dislike for the latters. Some attribute this to the skill of Taieb and the respect he commands among all
tribes. Others believe the Geneishat movement to be a reciprocal act to
bait Asabei' as a whole which long ago had one a similar favor for the
Geneishat. Still others beliebe it to be a gesture of good will on the
part of the Geneishat who needed to retain a good and friendly relationship with the tribal segments on their smuggling route.

No date was set at that time for the oath. The parties as well as
685 the witnesses returned to their houses. Hakim then took Shei'eb and
627 went to visit Qudura to see why he hadn't come to the oath but Qudura
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685 refused to see them. Later Hakim had Shei'eb spread the rumor that Qudura
627 had taken a bribe from the Geneishat to refuse to take the oath, and the
578 [521] story of an old dispute between Qudura, on the one hand, and both Hakim
613 and Shei'eb, on the other. This dispute dates back to the time when the
156 Awaqil of the Aggary Amar decided to replace Shei'eb with Hakim as the
554 Aqila of bait Asabei'. Shortly after the decision of the Aggary Awaqil
578 was publicly known, Qudura was very unhappy and refused to recognize it. His reaction was not out of loyalty to Shei'eb whom he thought was a very unfit person for the position, but it stemmed rather, from a deep resentment of Hakim. According to my information, Qudura's position was met with sympathy by the majority of the people outside the Aggary Amar who share with him the belief that Hakim was a dishonest person who could not be trusted as a representative of bait Asabei'. It was at that time that the stories of Hakim's dishonest dealings were being discussed publicly, mainly by Qudura and members of his camp. At that time many believed that Qudura was the best man for the position of Aqila of bait Asabei' and that he was the only qualified member of that bait. He was the oldest able man in the bait, and although he was poor, yet he was known throughout the area for his honesty and sound decision. In fact many people in the area told me that they believe Qudura to be the only honest member of bait Asabei'. Realizing that Qudura was getting all the attention, Hakim sent his son Rabbu to Qudura with a message that Hakim acknowledged Qudura as the Aqila and that he (Hakim) had neither the time nor the interest in taking the position himself. Hakim also conveyed the view that he would support Qudura if the latter denounced Shei'eb and appointed himself in his place. Qudura agreed and a date

613 156 was set for a meeting in which Quadra was to announce his decision.
554 Meanwhile, Qudura stopped attacking Hakim and directed his attack to-
578 ward the inadequacy of Shei'eb as the Aqila.

The meeting was held two weeks later and all the important people in the area were invited. After dinner was served Qudura announced his agreement with Hakim to become the Aqila of bait Asabei' replacing Shei'eb. Everybody expected Hakim to support Qudura in his claim, but instead Hakim directed his comment to Qudura telling him that there had been a misunderstanding on Qudura's part and that all his message to Qudura was to acknowledge the latter as the Aqila for his own camp alone not for bait Asabei' as a whole as Qudura claimed. This announcement was a surprise to everyone in the meeting since this meant recognizing the camp of Qudura as a separate bait, a result which nobody, including Qudura, had ever anticipated. Qudura was very angry and dissolved the meeting immediately. Ever since that incident, the relationship between
578 Qudura and Hakim has been very unfriendly. Almost all of my informants
156 explained Qudura's failure to show up at the oath as a means of revenge
695 against Hakim who had embarrassed him among the people who attended the
685 627 meeting. Qudura himself had told me later that the reason for his not
[124] coming to the oath was that he was not sure that Rabbu was innocent:

> Rabbu has been known to do these thins (inform the police) and I cannot trust him. I cannot take a false oath and endanger myself for someone like Rabbuh. Besides, Hakim never came to me to discuss the oath like he did with all the others who were to swear with them. If he had brought his son and come to me before I would have been able to tell whether they were lying or not, and If not, I would have sworn with a clear conscience and without fear. The oath is something that one does not take lightly. It involves the supernatural.

613 627 156 When Qudura refused to see Hakim and Shei'eb, Hakim asked Sheikh
196 Saleh, the Aqila of one of the most powerful baits in the area, to talk

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627 to Qudura and to tell him that Hakim wanted to show his respect. This
156 means in everyday parlance that Hakim was willing to pay him money.
[196] Qudura agreed to meet Hakim the following day.

[114] On the day of the meeting, to which I was invited, Hakim arrived
[431] with his son and gifts of three goats, tea and sugar. One of the goats
[574] was slaughtered and supper was prepared for the guests. While the guests were eating, Hakim and Qudura disappeared inside one of the tents for more than an hour. When they finally joined the gathering, Hakim announced that he and Qudura were now brothers and that it was his fault that Qudura was angry because he had accused him of being stupid and misunderstanding the content of the message sent to him after the meeting of the Aggary awawil. "I admit," said Hakim, "that I might have meant at one time and probably said it to sheikh Qudura that I wanted him to be the Aqila of bait Asabei'. Now that I have admitted this, Sheikh Qudura should not have any grudges against me or my son." Then Qudura addressed the gathering and said, in a very cold and dry manner, "I am glad that Hakim has come to this senses and admitted his mistake." The gathering lasted for most of the evening, spent mostly in behind-the-scenes meetings involving Hakim, Qudura and different guests. Then as the last guest left, Shei'eb, who had been inside the tent throughtout the evening came out and said that Hakim was a fool and that Qudura had tricked him into admitting publicly that he had lied and that Qudura still refused to take the oath.

613 Qudura's stand created a strong reaction which affected almost all
619 the tribal segments in the area. The case overshadowed any other event
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[521] and was the main topic of discussion. The reaction was mixed, however.

613 Other tribal segments outside the Aggary amar supported the position of
619 Qudura, and most took his position to prove their notion about his
578 honesty and the fact that despite his poverty, he could not be bribed.
156 They were also pleased with Qudura's trick which demonstrated Hakim's dishonest
613 techniques. Within the Aggary amar, the general sentiment was still with
578 Hakim although his confession of cheating Qudura made it difficult to
156 support him openly. They directed their attack against Qudura who in
their view violated the solidarity of the amar and even of his bait and
showed it as divided and noncohesive. They were also fearful that Qudura's
[685] refusal to pay would cause the amar to pay the Geneishat the full compensation
for the action of Rabbuh, a sum which, as one said, would put the
amar in debt for generations to come. The strongest impact of the events
affected bait Asabei' itself and left it one step from complete fission
into three distinct groups. Shei'eb, finding the tide turning against
Hakim, found a chance to assert his claim to the position of the Aqila,
stating openly that he would never forfeit his hereditary right. On the
other hand, finding the popularity of Qudura increasing rapidly, he
started attacking him verbally and even threatened to beat him. He insisted
[681] that Qudura and his sons should be excluded from the amar and
given the barawa.

613 The word "barawa" is derived from the Arabic verb "bara" which means to
681 cure one's self of an illness. It also means to sever social ties with
[192] undesirable persons. The term is used among Awlad Ali in a much restrited
sense to refer to the process by which a tribal segment detaches itself
from any responsibility for the actions of a particular member. It is

613 681 mainly a declaration that, that particular person is no longer a member
of the tribal segment and that his actions should not in any way reflect
upon the tribal segment. The tribal segment referred to is usually the
amar since it is only politically corporate group amoung Awlad Ali. The
procedure is usually undertaken in cases of habitual offenders whose ac-
tions consistently bringing liability to the amar or disgracing it in
relations with other tribal groups in the area. Due to the seriousness
of the procedure (since it leaves the individual without the protection
of his group), it is restricted. First, to announce the barawa of any
of its members the amar has to get the unanimous agreement of all adult
males of the gorup as represented by their Awaqil of their respective
[675] baits. Lately such decisions have to be put in writing. The barawa
[593] from the amar does not include the man's father, brothers, or sons.
[672] These immediate relatives remain responsible for his actions even if they
desire to detach themselves from such responsibility. This is mainly
maintained not so much for the protection of the repeated offender but
rather for the protection of unsuspecting people who happen to have deal-
ings with him and who would be protected by the corporate responsibility
of the man's immediate kin. In addition to repeated offenders, the
[626] barawa or the threat of it is used to back the awaqil in their exercise
of persuasion to get members of their baits to agree to their decisions,
expecially those affecting the amar, like the collection of bloodmoney
or the taking of the oath.

A man, on his part, may ask to be given a barawa from his amar. In this case, as shown in the amar papers of Aggary, he has to give good reasons for such a demand. The awaqil of the amar meet and discuss such

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a request and examine the reasons behind it in an attempt to remedy them if possible. They have to be sure first of all that by his request the person is not avoiding the paymnet of his share in a particular case. [695] If this is proven to be the case, then no barawa is granted unless the person pays all his debts to the amar. This, like the amar's barawa of the individual, has to be put in writing.

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I left the area a month after the meeting held at Qudura's camp. By the time I left, bait Asabei' was almost in a chaotic situation. Many thought that the outcome would be in favor of Qudura, who would emerge from all the happenings as the leader of bait Asabei' as a whole. Others thought that the only possible outcome was for bait Asabei' to be divided into two or even three separate units with their own respective leaders.

Analysis

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All events of the second phase occurred while I was in the area. Nonetheless I was not able to observe directly all of these events, due to the nature of the judicial process among Awlad Ali which relies, as has been mentioned earlier, on informal mediation and influence, rather than on formal court hearings. Most of the above events happened behind [124] closed doors and with a great amount of secrecy. For this reason I had to rely partly on informants' accounts of what exactly had happened between the parties involved.

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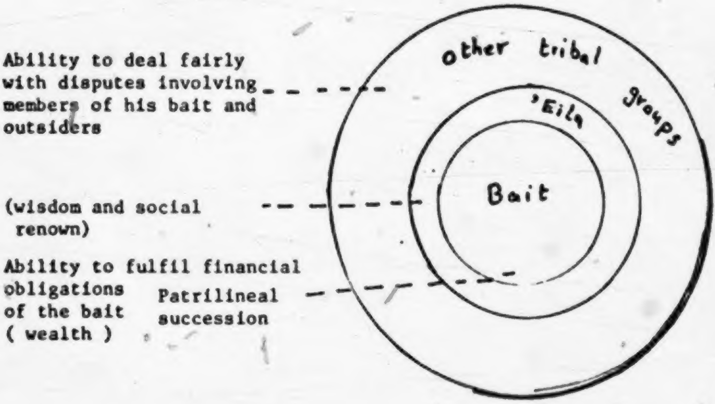
The dispute in its two phases revealed a major weakness in the social structure of the major bait of the Aggary family. As the events of the case unfolded, they shed light on some of the important principles

613 627 182 underlying the authority of the Aqila and the source of his political support. Three such principles were evident in the above case: patrilineal succession, wealth, and social and personal renown.


Ability to deal fairly with disputes involving members of his bait and outsiders
(wisdom and social renown)
Ability to fulfil financial obligations of the bait (wealth)
Patrilineal succession
other tribal groups
'Eila
Bait

613 554 To better understand the importance of the three principles to the authority of the Aqila, it is important to examine the domains within the Aqila normally functions. First, the Aqila is the leader of a certain kinship unit: the bait. Historically, the bait has been the main field of action for the Aqila and from it he draws his main political support. 613 627 554 As the leader of his bait, the Aqila settles disputes among members of his bait and represents the group for political and administrative purposes. His function is to hold the bait together by preventing major disputes between members from leading to the fission of the group into smaller, separate units. He performs his function by exercising authority and/or personal influence to establish long-lasting agreements.

613 554 [157] [428] [556] In performing his functions within the bait, personal qualities such as wisdom, soundness of ideas, personal persuasiveness are of importance. But the main basis of his authority is patrilineal succession. The Aqila has no economic power to speak of. Although many aqila are among the wealthiest members of their baits, many more are among its poorest. The nature of the economic process and the pastoral life of Awald Ali is such that the economic position of the individual is always flucuating. Nor does the Aqila have any military power at his disposal, or any command of the use of force to back his decisions or to make them binding [428] upon members of his bait. The main source of compliance to the Aqila's decisions comes from the knowledge that the Aqila has the authority to make such decisions and that he has acquired this authority through the legitimate channel of patrilineal succession.

613 428 562 [619] Where membership in formal groups is transmitted by descent, Awlad Ali always choose the patriline. The son of Awlad Ali is regarded as Awlad Ali even though his mother might not be from the tribe, while a woman who marries outside the tribe transmits no rights in the tribe to her children. The importance of agnatic kin is reinforced by an solidary of brothers which is extended laterally to patrilateral cousins. It is also shown in the fact that sons are favored in inheritance usually to the exclusion of daughters. The male line is viewed by Awlad Ali as the natural principle when it comes to anything which is inheritable, whether property or position. In an attempt to defend Shei'eb's position and his right to be the Aqila, one informant told me: "The main purpose that a man has in life is to have sons because it is the son who makes the man live forever. Daughters don't count. A man gives his son

613 428 [562] everything ... his property, his name, and anything he can give him, like the position of the Aqila. This is only natural." While the office of the Aqila is inherited through the male line, there seems to be no special regard for seniority. Any son of the Aqila can succeed him in the position and it is usually left to the Aqila to select the son who is to succeed him. 613 428 593 This decision is not usually the subject matter of brotherly rivalry since the position of Aqila is regarded more as a duty than as a privilege. There has been only one case in the entire area of the Western Desert in which such a decision has lead to open fighting between brothers. "When my father became very old and his eyes bothered him, he told me that I should become the Aqila and could not say no to him," said Shei'eb. "I didn't want to become the Aqila but this was the choice of my father and I have to obey .... You owe it to your father and family to carry on his responsibilities the same way you carry his name." It was patrilineal succession upon which Shei'eb based his case. Most uninterested parties believe that he and he alone had the legitimate claim to the position.

613 627 554 The importance of patrilineal succession as the basis of the Aqila's authority may be better understood by contrasting it to a closely related position, that of the "mardi". A man within a bait may acquire, by virtue of personal qualities, a reputation for wisdom and soundness of opinion which may overshadow that of the Aqila. Such a person becomes known throughout a certain area as a successful mediator and go-between; and therefore is called upon to solve disputes not limited to members of his own bait. He thus acquires an informal position which cuts across a number of baits and sometimes larger political units.

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The word mardi is derived from the Arabic verb "yardi" which means to accept or agree upon. The mardi therefore is the person who is accepted by one or both parties to a dispute as a mediator. If he is accepted by only one of the parties, his work is more that of a legal representative of that party. He makes all efforts, using all powers of persuasion to get the other party to concede to the demands of the party he represents. If, on the other hand, he is chosed by both parties to a dispute, he acts as an impartial judge and avoids taking sides in the case. His fame is determined by his ability to achieve permanent, long-lasting settlements. His success in this area depends, in addition to personal qualities, upon the respect he has within his own tribal segment and the weight that tribal segment has among other tribal segments. Similarly, his success and the fame he gets as a mardi may give him considerable influence within the bait. But this influence does not develop into authority because the mardi in this case does not have an established basis for the effective maintenance of that authority, in this case, patrilineal succession.

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The other domain within which the Aqila performs his duties is that of the Eila or the amar. His main function within this area is to represent his bait in matters involving the collection or the distribution of bloodmoney within the vengeance group. Within the amar, the aqila is considered successful insofar as he is able to fulfill his bait's financial obligations to the amar. This ability is in turn determined by his success in collecting money from individual members of his bait and/or his willingness to pay from his own money for those members who are unable or unwilling to pay their share. Where kinship ties are strong, the Aqila

613 usually has no difficulty collecting the individual shares. His own
682 [554] financial ability is rarely called upon. When a member is unable to
[178] pay for any reason, his share is divided among the able members. However,
in recent years this seems to be changing, especially among the baits
closely located to the settled communities or the urban centers. Among
613 these baits individual mobility has increased significantly with a large
178 166 number of younger members either leaving the area for the urban centers
464 or accepting salaried jobs with the government organizations. Among
369 certain baits in the area of Burg el-Arab, for example, the percentage
of adult males engaged in such jobs sometimes reaches sixty percent.
More than thirty-five out of fifty-six males constituting bait Asabei'
have a full-time or part-time job.

613 The individualistic attitudes accompanying the dependency on sal-
178 166 aries and living in towns and cities have their effects on the kinship
464 ties among members of these baits. With the prevalence of the individ-
682 ualistic attitudes among members of a certain bait, they become more
369 reluctant to pay their financial obligations and the Aqila finds it more
and more difficult to rely, for the fulfillment of the bait's financial
obligations, on the willingness of members to pay. His success within
613 554 the domain of the amar becomes more determined by his ability to pay
556 from his own money for those members of his bait who refuse or are un-
682 able to pay. Wealth becomes an important asset for the Aqila's per-
formance of his duties within the amar. When this happens, there seems
to be a certain shift in the source of political support for the Aqila.
613 In a well-integrated bait the popularity (or unopopularity) of the Aqila
554 among the other Awaqil of the amar had very little influence on his

613 position as the leader of the bait. The principle of patrilineal succession
554 is so respected in such baits that it overshadows any other consideration.
613 554 This continues to be the case as long as the kinship ties
428 within the bait remain strong. When the kinship ties in a given bait
178 weaken, the principle of patrilineal succession also weakens. This is
[166] more likely to occur in baits where a relatively large number of the
[464] members leave the area permanently or for a more or less prolonged period
613 of time, seeking jobs on a part or a full-time basis. Many of these
178 members maintain only a minimal contact with their respective baits.
166 464 They become more reluctant to fulfill their kinship obligations, especially
561 when they entail any financial liability. The older members
369 complain about how younger persons are less loyal to their elders and
how selfish they have become. "All they care about is their jobs and the pleasure they get from the city; they are becoming city people." Younger members, on the other hand, maintain that their reluctance to fulfill their kinship obligations stems from their feeling that they do not get anything in return. "Life is expensive and money is hard to obtain. I cannot make enough money to support myself and my wife and children and at the same time pay my cousin's financial debts," said a member of eilat Asabei', who works as a driver with the Desert Organization in Alexandria.

613 When this happens, there seems to be a tendency toward shifting the
554 emphasis from the bait to the eila or the amar as the source of the political
[556] support of the Aqila. This is turn makes wealth an important
basis of the Aqila's power. No more can the bait impose an ineffective Aqila on the amar unless it is ready to back him by their own share of money. If this is lacking as was the case with Shei'eb, there is nothing

613 554 that prevents the Awaqil of the amar from rallying support around another person.

613 178 554 In the case of the Aggary amar Hakim was their choice as the man to replace the original Aqila. What happened in the Aggary amar could never have happened if bait Asabei' were more cohesive than it was or if the kinship ties "were still strong and durable" as one important member of the Sanagrah tribe commented. "If there was any respect to the forefathers left, Hakim could never have agreed to replace Shei'eb....Nobody would dare take a position from someone who inherited it from his father.... but bait Asabei' is not as it used to be."

613 628 554 The third domain within which the Aqila normally pursues his activities is that of the wide scope of tribal society in the area. The Aqila represents his bait in all matters involving the bait either as a unit or any particular member of it with other tribal segments. When an individual from the bait is involved in a dispute with a member of another tribal segment, the Aqila acts as the legal representative and the attorney of that member trying to achieve a settlement which is not fair for his client but also fair for the other party. To be successful in this area, the Aqila relies on his own personal qualities and persuasive abilities. If the Aqila is known to be fair and honest, a quick and permanent settlement is usually achieved since he is trusted also by the other party. If, on the other hand, he has the reputation of using dishonest techniques, mistrust prevails and achieving a settlement is usually delayed.

Like the domain of the amar, the present field of activities is no major source for the Aqila's political support in the baits where kinship solidarity is strong. His success in solving disputes between members

His success in solving disputes between members
613 of his baits and outsiders might enhance his prestige within the bait,
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554 but it is not a substitute for patrilineal succession as the basis of
[428] the Aqila's authority. But in less integrated baits the situation is
[627] different. The ineffectiveness of the Aqila in solving disputes may
lead members of his bait to seek another man as their representative who
would act as a mediator in their behalf. If this continues for a long
time the Aqila might find himself with no functions and the new person
would become a de facto Aqila.

613 The Aqila represents the only effective indigenous form of leader-
554 ship among Awlad Ali at the present time. The camp headman provides
622 another form of leadership on the camp level, but, as mentioned before,
the leadership of the headman is very limited and involves minimal
634 authority. In addition to the indigenous leadership represented by the
622 Aqila, there is the superimposed administrative structure of the govern-
656 ment representative in the form of the "omda" system introduced into the
177 area by the government decree no. 1187 of 1958. The system of omda or
mayorship is essentially that applied to the rural areas of Egypt with
certain modifications to fit the tribal organization and the semi-nomadic
existence of the populations of the Western Desert. In rural areas, the
622 omda is the administrative head of the village. He is appointed by the
[554] government from among the village inhabitants who have certain qualifi-
[212] cations with regard to education (must be able at least to read and
[556] write), wealth (own at least 5 feddans of land in the area), and sound
reputation. As such, the omda system in the rural areas is a territorial
system. The omda's authority covers the territory of the village and
all individuals living in it regardless of their kinship affiliation.

622 His main function is to manage the affairs of the village, apprehend
554 criminals, report and register births and deaths, collect taxes and
represent the government in all matters involving the relationship between the government and his village. Because of his position as the
[661] representative of the govrernment, he usually enjoys a considerable
amount of power which, over the years, many omdas have used it to obtain personal benefits.

361 In 1958 the committee appointed for the examination of the possi-
631 bility of applying the system to Awlad Ali noticed that villages in the
sense of a compact settlement similar to that existing in the rural area simply do not exist in the Western Desert region. There are a few settled communities in the area but they are scattered homes or a few stores. These communities have no identifiable boundaries or adminis-
631 trative existence. The area as a whole is divided into ten adminis-
634 trative districts, each having a police station. These districts cor-
[625] respond to the old Senusia Zawyas which played an important role in
[795] maintaining order in the era until the First World War. Until that time
[175] the area was divided into fourteen zones each of which was under the
795 jurisdiction of one of the zawyas. The zawyas were mainly religious
175 centers, or shrines, inhabited and directed by a member of the Senusi
[793] order of Cyrenaica. The role of the head of the zawya was to teach the
Qoraan and spread the teachings of the Senusi order. One of the ways
[794] the zawyas attracted followers was through distribution of food and
clothing to those who joined it. The zawyas also provided places of
[798] refuge for those who needed protection since no one could force his way
into the sacred zawyas. Because of their religious position which put

795 Because of their religious position which put
175 them outside the tribal structure, the leaders of the zawyas played a
627 significant role in mediation and settling disputes between various tri-
793 bal segments. At their disposal was their ability to ostracize anyone
[626] who did not abide by their decision from the zawyas, which meant depriving him from all the benefits, social as well as religious, that membership in the zawyas offered.

795 After the First World War when the British replaced the Turks as
175 governors of the area, the zawyas were closed and the religious leaders
177 ordered to leave. The zoning established by the zawyas existed, however,
[648] and was used as the basis for the redistricting of the area. Police
[631] [625] stations replaced the religious centers. From the standpoint of the tri-
619 634 bal population itself, the districts have no psychological or political
[795] reality. The zawyas were originally established in the areas of tribal
[361] concentrations. But the area itself did not have any political identity. The only reality from the standpoint of the inhabitants was the tribal reality and affiliation which cut across many of these districts. Many of the tribal segments inhabiting one district were and still are hostile
177 to one another. To transform the zones into administrative districts and
634 to establish one office of leadership for the whole district was to im-
619 pose a political unity nonexistent among the tribal segments inhabiting
[622] the district. To avoid this difficulty, the government supplemented the territorial principle of the omda system in the rural area with the principle of tribal representation and came up with a system which seems to suite the situation in the Western Desert. For each of the districts, a list of all tribal segments which habitually occupy the area and whose tribal land is located within the district, is made. The most powerful

554 The most powerful
177 and numerous segments are then represented by the omda, and the lesser
634 ones are represented by a sheikh. Unlike the system in the rural areas
619 where the sheikh is a subordinate to the omda, the sheikh in the Western
[622] Desert does not occupy the same position. Instead he has the same functions and occupies, with regard to his tribal segment, the same position the omda occupies with regard to his. He does not take orders from the omda and has direct relations with the administration. Sheikhs and omdas from one district are supposed to meet periodically in the police station and discuss with the police officer in charge of the station matters concerning the district and their own tribal groups. The only difference between the omda and the sheikh in the Western Desert seems to be the label of the office. The label itself carries a certain amount of prestige to the tribal segment represented by the omda, since it is an acknowledgement by the government of its importance. This is why many of the tribal segments try to be represented by an omda rather than by a sheikh. In certain districts where two or more strong tribal segments compete for the honor of being represented by an omda, the district may have two or more omdas representing the strong tribal segments and a number of sheikhs representing the lesser tribal groups in the district. Not every tribal segment in a district is represented by an omda or even a sheikh, however. Very small tribal segments may join together and have one sheikh, while others may agree to be represented by one of the larger segment's sheikh or omda.

634 Obviously, the number of omdas and sheikhs differ from one district
554 to another depending on the number of important tribal segments in each.
619
657 There is no specific rule whereby a certain tribal segment is considered

634 by the government to be significant enough to be represented. This matter
554 is left almost entirely to the ability of members of a given tribal seg-
619 657 ment to convince the authorities that their group is sizable enough to
give them the right of omda, or at least sheikh's representation. A seg-
ment represented by a sheikh may later ask for an omda because of the
prestige involved. It is worth noting in this respect that the various
tribal segments in the area are eager to be represented in the govern-
ment administrative structure. Gaining prestige among the other tribal
segments is only one motive for such eagerness. Unlike the omda in the
[622] rural areas who functions mainly as a representative of the government
to the village, the omda or sheikh in the Western Desert is a represen-
tative of the people to the government. This is not a theoretical diff-
erence but involves a real difference in the relation of the government
and the omda, on the one hand, and between the latter and the people
622 his represnets, on the other. The omda in the village is a symbol of
554 authority to his people. He is the undisputed ruler of the village. His
657 authority is backed by his ability to mobilize and use the force put at
his diposal by the government, in the implementation of his decisions.
Since he is appointed by the government and not elected by the people,
he does not have to rely on his popularity to hold or maintain office.
His main concern is to please the government, rather than the people of
the village to whom he is merely a symbol of authority. There is very
little that the village omda can bring to his people form the outside,
while he has to implement government policies, collect taxation, appre-
hend criminals, all tasks which the villagers are not eager to have done.

634 The situation is quite different in the Western Desert. Although
666 657 it is the government, represented by the province council, which makes
554 the final decision in appointing the omda or sheikh, yet this appointment
619 is made on the basis of nominations given by the gribal segment
635 or segments which he would represent. Since the tribal segment usually nominates one person, the decision of the council is limited to the examination of the credentials of the nominee and to see if he meets the basic requirements of the law. If a certain nominee is rejected by the council, a very rare occurrence, the matter goes back to the tribal segment to make another nomination. In practice, then, the omda of the Western Desert is elected by the people and the appointment by the government of the omda is significant only in cases where the omda is to represent more than one small tribal segment and each nominates one. Here the council has to choose between the various nominaees and appoints the best
634 qualified. Unlike the omda of the village, the tribal omda is a real representative
554 657 of his people. Despite the fact that he becomes part of a
619 governmental structure, his basic function is to look after the interest
[622] of his tribal group. Or, as one informant put it, "The omda is the servant of the people." In many cases the best interest of the tribal segment is served through full cooperation of the omda with the government. So far there seems to be very little conflict between the interest of the tribal populations and that of the government. There is very little in
[651] the area that the government demands or needs. There is no taxable land to speak of. There are only a few acres of barley land and even these
634 are minimally taxed. The main responsibility of the omda to the government
554 657 is to report births and deaths and give a yearly list of young men

634 554 657 who reach the age of military service. He is also supposed to report the presence of any fugitive or crininal in his district and report crimes accurring in that district and which involve members of the tribal segment he represents.

634 554 657 562 701 178 The first two duties of the omda to the government do not involve any conflict of interest. Unlike the rural areas where sons are considered a very important economic asset to their parents, and therefore, there is a general resentment of military service which takes the sons away and deprives the parents of their important work around the fields, Awlad Ali look at military service as

1 On the basis of one percent of the yearly yield.

an opportunity to have their sons go to the city, obtain guaranteed payment, and escape the hardship of nomadic existence. Economic activities [233] in the area do not require the cooperation of a large number of individuals, and most of the grazing of animals is done either by a paid shepherd or by one of the grown-up sons. Although there still exists an [183] ideology which values having many sons, yet with the cessation of hostilities between the tribal segments, their presence in the area has lost its [464] value. Many of the younger generation are seeking jobs with the government projects in the area or in the city. Neither one is easy to find. Joining the army is increasingly considered as an easy alternative.

634 554 657 674 The omda's function which seems to involve some conflicting loyalties is that of reporting crimes involving members of his tribal segment. But even this does not pose a serious problem as it might seem. Almost all minor crimes committed against property or persons as well as all civil disputes are left to be handled by the tribal proceedings. The duties of the omda are limited to reporting the cases of murder and serious assault

634 which result in permanent bodily harm. Reporting such cases is a fairly
554 minor proceeding since such cases come to the knowledge of the authori-
657 674 ties through other channels, mainly from talks involved in the mediation
[743] for the bloodmoney or from the hospital to which serious assault cases are usually taken. Besides, reporting a crime does not mean convicting the offender. This latter depends on evidence which, in case the dispute has been settled by tribal proceedings, is hard for the police authorities to find.

634 While the government demands do not impose serious conflicts of
554 loyalty on the part of the omda, if successful, his position with the
657 government can bring to his tribal segments great benefits. These benefits are usually in the form of various social and economic aids including fodder for the animals and food and clothing for the people during the dry years. Other benefits including providing the tribal population with olive trees and helping them clear many of the old Roman wells and establishing wind mills for nominal fees. Not everyone in the area can have such benefits. Some do not even know they exist. A successful omda could manipulate the administration to get as many benefits for
[871] his tribal segment as possible.. Some successful omdas were able to have
[474] the government build schools in their districts, establish cooperative units to market local products such as wool, sheep, and olive oil.

634 This should not lead us, however, to conclude that the position of
554 the omda in the Western Desert does not involve any kind of conflicting
657 578 loyalty or that he is always supported by his people or even trusted by them. One informant said that the omda of his biat is "...government man, not ours....He would sell us all if this pleases his masters in the

634 government." But due to the nature of the representation and the spe-
554 cific relation of the government to the area, the position of the omda
657 [578] does not pose serious demands upon the loyalty of the omda to his tribal
group.

634 Because of the omda's ability to bring benefits to his tribal seg-
554 657 ment from the government, the ability to manipulate the administrative
666 officials is the most important basis for the nomination of a given
individual for the position of the omda. "The omda is one who can speak city talk and knows how to deal with the government officials." Age is not important; young people know more about city ways than old people. "A man may be a cheat, but as long as he can get our things done, he is the best man for the job...of course, we don't want to nominate someone with a bad reputation who may blacken our face in front of everybody. However, if he has a bad reputation the council would not approve his appointment...he just has to be someone who can get things done..."

159 Muftah Mughaieb, the sheikh of the Sanagrah tribal segment in the
634 district of Haman, described the circumstances of his nomination as
554 follows:

> 657 Before the former sheikh of that tribal segment died (he
> 666 578 was Muftah's uncle), one member of the group got into an argu-
> 625 ment with the police officer in charge of the police station in
> the district. The tribesman insulted the police officer who insisted on arresting him. Rumors also had it that the police officer was using his authority to reduce the share of the tribal segment in the government aid which was badly needed during that particular year. Sheikh Muftah, whose father is the Aqila of

159 bait Mughaieb of the Sanagrah tribe, went to the officer and apol-
634 ogized to him on behalf of the whole group and invited him to a
554 lavish dinner party. The charges against the tribesman were soon
657 666 dropped, and it was concluded that it was because of the way Muftah
[578] [625] had handled the situation. Since that incident, Muftah has been known as an expert in handling the government officials. One year later, the sheikh of the tribal segment died, and a meeting was held during which the important members of the Sanagrah tribal segment in the district decided to nominate Muftah for the position of the sheikh, vacant by the death of his uncle. Muftah, who was attending the meeting, was asked to accept the nomination, and he agreed. "...I accepted the nomination reluctantly." Muftah
159 later told me, "I did not really want to become the sheikh. The
634 position does not bring any personal benefit, and it involves a
554 lot of responsibility. The sheikh has to act as an attorney for
657 his tribe, represent it to the government and competes with other sheikhs to bring his people things that the other sheikhs cannot get for theirs, like more membership in the cooperative units or in the socialist union. And what does he get in return? Nothing... not even the gratitude of his people. To them, he is a servant of the tribe, and his duty is to look after its interest. If he doesn't, then everybody is quick to criticize him. I had to accept the nomination because I felt it was my duty to do so and not to embarrass the awaqil and the important people of the tribe who
[465] put their confidence in me. As far as the government, all I get is six pounds a month."

634 554 619 "The omda or sheikh is both a blessing and a curse to his tribe," said one member of the Aggary 'eila. "He can bring benefits to his tribe, but at the same time, he has to report his own people if one of them breaks the city laws... His position is like that of a double-edged razor."

Most of the people in the area, however, tolerate the negative aspects of the omda's functions as a moderate price for the possible benefits they may get through his position. This is why each tribal segment does its best to be represented by an omda, or at least by a sheikh.

Within his tribal segment he enjoys a great deal of respect. He does not, by means of position alone, command any power over members of his group similar to the power the omda of the village has over his
[613] people. It seems, however, that although the position itself does not carry with it any power, yet, when the holder of that position is at the same time a native tribal leader or aqila, it tends to enhance his position as a tribal leader and to give him more respect among members of his tribal unit as well as among the rest of the tribal groupings.
634 554 619 182 657 613 This may be explained by the fact that the establishment of the omda system in that area did not involve direct interference with the native political system except in a minimal way, mainly to keep the tribal populations in the area from interfering in the progress of various government projects in the area. As such, the system did not impose too many demands upon the tribal loyalties of the omdas or sheikhs. In the relationship between the government and the tribal population, the balance so far has been in favor of the latter, who, by means of

634 omda representation, are taking from the government much more than
554 they are giving in return. Being the link between his people and
619 the government in such a system gives the aqila a new basis of
182 political support.
657
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CHAPTER V

MARRIAGE: A CONTRACTUAL RELATIONSHIP

593 A survey of all disputes occurring among the eilat Aggary in the
578 last five years shows that more than 70% were disputes over "women,"
the usual phrase referring to cases involving marital relations. Disagreement
over matters arising out of quarrels between husband and wife
or between one of the spouses and his or her in-laws often constitute
593 the basis for these disputes. What seems to make marriage and the
578 family particularly productive of conflict is the fact that although
602 residence is commonly virilocal, and the majority of the women leaving
613 their own families to live with the husband, the woman retains her
[591] membership in her father's family after the marriage, and her agnatic
group keeps an active interest in her, even after she is married. Marriage
then brings face to face the interests of two groups. These interests
affect the relationship between the married couple; and, more
importantly, the relationship between the latter affects the interests
of their respective groups. This, in many instances, leads to direct
conflict between the two groups.

581 The position of the Awlad Ali daraieb with regard to marriage relations
671 is based on the Islamic law with minor modifications to suit the
585 requirements of local life. According to the Muslim law, marriage is
675 a civil contract affected by the request of one party and the agreement
of the other. No witnesses are needed for the legalization of the
marriage, according to some of the Shi'a sects, although the Sunni schools
of Muslim jurisprudence insist that two adult male and two adult females

581 are necessary for the validation of the marriage contract. Modern
585 671 legal systems which took as their basis the Islamic law of marriage
675 and the family further required the registration of the marriage con-
tract for the marriage to be legal.

584 The request and necessary response forming the marriage are sup-
585 posed to be carried on by the parties involved. However, if either the
429 groom or the bride is not of age, or is mentally unqualified, the trans-
593 action is carried on by his or her guardian, or "wakil." The wakil is
the father, unless he is dead or an invalid, in which case the brothers
[604] become the wakils. If the person has no brothers, then the uncles be-
[184] come the wakil in the order stated. According to certain Sunni sects
in Islam, a woman marrying for the first time is always represented by
her wakil, even if she is of age. The assumption is that a woman who
has never been married does not have the experience that enables her to
enter into any kind of legally binding relationship such as marriage.

585 Following the original Islamic idea, marriage among Awlad Ali is
675 an oral agreement between the groom or his father and the guardian
593 429 (wakil) of the bride-to-be (her father, if alive, or her closest male
[604] kin in the following order: her brothers, her uncles, her grandfather).
585 A religious man is sometimes asked to perform the marriage, although it
792 is not required. Some persons might invite a member of the Murabiteen
[619] tribe or holy men to witness the marriage on the basis that his presence
[778] gives "baraka," or blessing, to the marriage. Before the application of
585 the State legal system to the area, marriage contracts were not regis-
656 177 tered. In recent years, however, and with the increased mobility of
[675] the tribal populations, more and more marriages are being registered in
[634] the administrative districts. Still, according to the unofficial estimates,

Still, according to the unofficial estimates,
585 only about ten per cent of all marriages are registered, and these are
656 177 mainly mixed marriages involving a tribal person and a non-tribal one
582 or a tribal member who is not living in the area anymore. The reason
619 is that such a spouse, especially when he is the husband, is not under
the control of the tribal customs and therefore cannot be forced to fulfill his obligations if he fails to do so. Most of the tribal population
[581] still feel that marriage is a personal and family affair that
should be kept away from the State legal system.

584 Marriage among Awlad Ali is a relatively informal procedure. When
593 a man decides to marry a certain girl, he informs his mother who, in
turn, informs his father. The father may have objections to his son's choice of the bride. Such objections may be based on already strained relations between the two families or the questionable reputation of the girl or any member of her family. In such cases, the father tries to dissuade his son from going ahead with the marriage. The father is
[583] usually successful in controlling his son's choice when the latter is
dependent on his father for the payment of the bridewealth called "mahr" and for the support of his new household. This is usually the case in the man's first marriage. In subsequent marriages and in the cases where the son has independent means of support for himself and his bride, the father's control of the son's choice is minimal, and asking the father's approval is a matter of formality. In second and subse-
593 595 quent marriages, the approval of the older wives is essential. The
584 older wives have no right to object to the husband taking an additional
wife, but they have the right to object to the choice on the basis that the new bride is hard to get along with or that there is animosity between her family and the families of the other wives which makes

593 595 584 cooperation between the wives in household activities difficult. The wives have to have reasonable grounds for their objection to the new [431] bride. But even then, the husband could still marry the woman of his choice, although in this case he has to bring gifts to the other wives as "nasafa," or making-up present.

584 If the family has no objections to the marriage, the proceedings 593 start. The initial proceedings are undertaken by the women on both sides. The groom's mother or a female relative of his mother's generation or older visits the mother of the prospective bride and tells her of her son's intention to marry the latter's daughter. The bride's mother then discusses the matter with the girl's father who has the [429] final say in the matter. If the father is dead, then the authority on giving the girl in marriage goes to her brother or closest male kin in the order specified before. The girl has no say in the matter of marriage and cannot refuse to complete the marriage, although after marriage she can resort to a certain practice which helps her to terminate the marriage without the consent of her guardian, as will be seen later in 584 the chapter. From this moment until the conclusion of the marriage [583] negotiations are done by the men of both families. The first thing to be discussed is the amount of bridewealth, a "mahr." If the two families agree on the marriage, a small ceremony is held. This ceremony is called [779] "el-fatha" in reference to reading the first "sura" of the Koraan known as el-fatha, or "the beginning." The ceremony includes members of the [675] two families and very few friends. After the fatha is read, the agreement is achieved. This is considered as an engagement and means that the girl is spoken for and therefore no other man can ask to marry her.

To break the fatha agreement, the father of the prospective bride

584 has to have a good reason. If he breaks it without sufficient reason,
[686] he may be liable to pay "kabara," or fine, for insult to the prospective
groom and his family. Adequate reasons for breaking the fatha
agreement vary from one case to another and include such things as the
discovery that the prospective groom or any of his family is of questionable
character. This applies to the groom as well as to any member
of his immediate family, the implication being that if he has such a
person close to him, he is likely to be influenced by him in his treatment
of his wife. If, however, the questionable character of the groom
or the member of his family was known to the guardian of the bride-to-be
before the fatha was read, then to break the agreement is considered
unjustifiable. This has been upheld in a number of cases which I recorded
during my stay in the area. One of these cases involved the agreement
584 686 between a member of the Sanagra tribe in the area of Alamein to marry
627 his daughter to a member of the powerful Bara'sa tribe in Libya. After
the fatha was read, a wealthy merchant from Alexandria saw the girl and
asked her father to marry her, and the father agreed. To justify his
breaking of the fatha agreement, the father claimed that he had discovered
that the first prospective groom and his father were involved in smuggling
goods across the Libyan borders. In the Mi'ad that was held upon the request
of the first groom and his father, the father claimed that the
bride's father had known about the smuggling and even participated in
the distribution of the smuggled goods. The father of the bride was
made to pay the sum of ten pounds as kabara to the first groom and to
pay him another ten pounds for the expenses of the ceremony in which he
had slaughtered two goats. The settlement was based on the fact that all
indications show that he must have known about the smuggling activities

584 686 [627] of his future in-law before he agreed that his daughter marry him. So, to break the agreement on the basis of discovering that defect is not permissible and is a kind of behavior not to be encouraged. To encourage such behavior would lead to the waste of time and money and would lead to the disgrace of the fatha as a preliminary agreement.* Permitting the father to break the fatha agreement when discovering an unknown condition related to the prospective groom or his family, is to apply an important principle in the Islamic law with regard to all 686 contractual relations. This principle maintains that any contractual agreement pertains only to the facts and conditions specified at the time of the contract. This implies that the conditions of the contract have to be explicitly stated. A deliberate effort to conceal an undesirable condition has the equivalent effect of specifying the existence of its opposite. Such concealment invalidates the contract and permits the aggrieved party to dissolve the contract on the basis of cheating or unfair deal, or "ghish."

If, on the other hand, no deliberate attempt is made to conceal the undesirable condition at the time of the contract, then there is no basis for dissolving the contract on the basis of cheating or unfair 584 686 deal. Thus, in the case above, neglecting to mention the fact that the groom and his father were involved in smuggling could not be taken as the basis for unfair or unreasonable behavior on the part of the groom, unless there was proof that they intended to cheat and conceal that fact deliberately, and that they knew that if not concealed, the fact would affect the acceptance of the bride's father to the marriage. All indications of the case above point to the lack of intent to defraud. On the

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* The same rule applies to the breaking of the "fatha" agreement by the groom.

584 contrary, there is enough evidence to indicate that the father of the
686 bride by participating in smuggling should have known about that fact, or at least it would not have affected his decision had he known about it. The grounds for unreasonable or unfair behavior is therefore not present in the above case.

If, on the other hand, the condition is specified at the time of the contract which is proven later to be false, then the behavior is
[585] considered as unreasonable. An example is the case of Mahdi, who, after reading the fatha to marry a woman from his tribe, was discovered to have had tuberculosis and was forced to forfeit the gifts and other expenses on the basis that he had had the illness for a long time and knew about it, but he deliberately concealed it when he asked to marry the girl. Not all concealed conditions are considered as an adequate basis for the breaking of the fatha. Only conditions are adequate which, had they been known at the time of the agreement, would have made the party's decisions different. One case involved a man who had concealed the fact that he had a wife in Alexandria when he asked to marry a tribal girl. Although the intention to conceal the fact was very evident, for this is the first question that the girl's father or her guardian asks the suitor, yet, breaking the fatha agreement by the girl's father when he discovered the previous marriage was considered as unfair and unreasonable since, had he known about the marriage, it would have made no difference in his decision. The go-betweens disagreed, however, on this. One of them thought that although the concealed condition is by itself not objectionable, yet, the mere act of concealment indicated a bad character on the part of the prospective groom, and that by itself, apart from the concealed condition, is not a good basis for marriage relations. The bride's father did not have to pay kabara, although he held

The bride's father
584 did not have to pay kabara, although he held
586 a big feast in which he slaughtered three sheep and invited the groom,
558 his father and a number of his friends and friends of the girl's father
in honor of the groom as a compromise.

583 Before the fatha is read, the two families usually agree on the
amount of bridewealth, or "mahr", to be paid by the groom or his father.
The amount of bridewealth depends upon a number of criteria, important
among which is the relative position of the bride's and groom's families
and the degree of relationship that exists between them. The lowest
mahr is usually paid in the case of cousin marriages. The amount ranges
from 10 to 50 pounds. Sometimes when the groom cannot afford any mahr,
he pays only the religiously required sum of 25 Egyptian piasters.
This is never the case if the groom and bride are more distantly re-
lated. When the groom is an outsider or a member of another tribe, the
mahr is usually much higher. Several cases of mahr of more than 2,000
pounds are reported in the area. There was a case in which the mahr
reached 10,000 Egyptian pounds ($22,000). The amount of mahr also de-
pends on the beauty of the bride. In the case of the highest known
mahr mentioned above, the woman was known to be of great beauty. There
[587] is no distinction made between previously married women and ones mar-
ried for the first time. In the case above, the woman was married three
times before, and the mahr was apparently higher than that paid for her
[602] in her first marriage. Increasing the mahr according to the kinshp
distance between the bride and groom reflects the preference of endoga-
582 mous marriages. The preferred marriage match in the area is that of
the patrilateral parallel cousin marriage. The father's brother's son,
"ibn 'amm," has an undisputed claim over his cousin, "bint 'amm." Even
when they are of incompatible age, or even if the man is married or for

582 some reason or other cannot marry his cousin, he still has that legal claim on his cousin. She cannot marry another man without the consent
582 of her cousin. He has the right to forcibly take her away and even
682 kill her or her husband in protection of his right. Although in the few cases where this had happened in the past, the groom had to pay full blood money. Such killing, however, was considered as justified and never resulted in retaliation or feuds among the tribal segments involved.

582 However, it is difficult to call cousin marriage among the group
124 "preferential" marriage. In a limited quantitative study I asked 35 tribal members who have unmarried daughters over the age of 12 the following question: "If you had your choice, to whom would you give your daughter in marriage: your brother's son or another man who is wealthier or more respected?" Twenty-six said they would rather have their daughters married to someone other than their nephews. The reasons given were that their nephews did not make enough money to either pay her a good mahr or to support her without outside help. The nine who preferred to marry their daughters to their nephews emphasized the fact that the girl's cousin is likely to look after her interests and take care of her more than the outsider "who may not fear God in his treatment of my daughter," as one of the respondents to the questionnaire expressed it. They also said that their nephew is more under their control than the outsider. They further maintained that a person is likely to know his nephew more than he knows an outsider or a more distant relative. One of the informants put it, "Even if my nephew is a cheat, at least I know that this is all that is wrong with him." All thirty-five informants felt that they were obliged to give their daughters in marriage

582 124 to their nephews if the latter demanded "because it is the right of the girl's cousin." And all but two said they would ask the permission of the girl's cousin before marrying her to an outsider, even if they knew that the nephew had no intention of marrying her himself, "to prevent the development of difficulties in the future."

On the other hand, when the same group was asked, "If you had your choice, would you rather marry your cousin or another woman who was wealthier or more beautiful," they answered as follows:

Marry their cousin	11
Marry someone else	24
Total	35

Two reasons were given by the eleven who chose to marry their cousins. The first is that they knew more about the temperament and the moral character of their cousin than about the other woman no matter how beautiful or wealthy she might be. Four of the eleven respondents said they would like to marry their cousin because they could not afford to pay the high bridewealth for a distant relative or an outsider. Although the sample I selected was by no means representative of the total tribal population in the area, yet, it points at least to the fact that parallel cousin marriage is considered by the father of the girl more as a duty or obligation than a choice, while from the standpoint of the suitor, it is viewed as a right which he can invoke at will.

582 557 It seems that many invoke such a right even when they have no serious intention of marrying their bint'amm. The purpose apparent in the numerous cases where this happened was to obtain money from the prospective groom who has to get the approval of the cousin to prevent trouble. In some cases the man invokes his right to force his uncle or the groom to concede to some demands, such as the sale of the right to use a piece

582 of parley land or a well or to make him a partner in a business or smuggling
557 activities or even as revenge on his uncle by keeping his daughters
582 unmarried. In 1961 the heads of 25 prominant baits of various tribes
557 in the area of Matruh met and decided that the right of ibn 'amm had
178 become a major problem, and that invoking that right when the man had
613 no intention of marrying the girl had resulted in a number of disputes
that became serious over a period of time. They felt that the time was
suitable to revise that right and make it subject to the concept of fair
behavior applicable to other rights. They wrote a new rule which specifies
582 557 that the man has the right to prevent his cousin from marrying an
178 outsider or a more distant relative only if he himself intends to marry
613 675 her either in the present or in the reasonable future. If the circumstances
show that he cannot do so, then he forfeits the right.

[558] To prevent his cousin from marrying another man without a proven
[681] intention on the part of the man to marry her himself in the foreseeable
future, is considered as an unreasonable behavior for which
ibn 'amm could be liable to pay kabara to his uncle as well as to the
prospective groom. It also denies him the right of taking her away from
[683] her marital residence by force. If he does this, he would be liable to
the compensation for assault. The agreement was signed by the awaqil
and is considered binding as far as the baits they represented are concerned.
Other tribal segments in the area refuse to abide by the agreement
and consider it as a pretentious departure from the ways of Awlad Ali
which should not be encouraged. Even within the tribal segments involved
in the agreement, there have been reports of individuals who refused to
[629] abide by the agreement. In certain of these latter cases, the ibn 'amm
selected as his mardi a member of a tribal segment not involved in the
agreement and therefore not morally bound to abide by
its contents.

000 agreement and therefore not morally bound to abide by its contents.

582 The lack of serious intentions to marry one's cousin is reflected in the actual frequency of patrilateral parallel cousin marriage in the
582 area. The following table is taken from the genealogies of five camps
621 in the area of Burg el Arab. The camps belong to different tribal
613 groupings:
619

Agnatic cousins	5
Other cousins	12
Within the bait (other than above)	9
Within the Eila (other than above)	13
Within the tribe (other than above	11
With members of the client tribe	15
With outsiders	9
Total	74

The above table shows that the frequency of patrilateral parallel cousin marriage is less than eight per cent of the total marriages included in
582 the genealogies of the camps studied. It also shows that the largest
619 frequency of marriage is with a member of a client tribe of Murabiteen. In the majority of the fifteen cases (eleven cases), it is the woman who is a member of the Murabiteen tribe while the man is a member of the Sa'adi tribe. The Murabiteen tribes from which the wives came are not always the clients of the particular tribal segment to which the husband
[583[belonged. One explanation of the popularity of marriage to the Murabiteen is that the bridewealth among them is generally less than it is for the Sa'adi girls. It therefore gives the man the advantage of lower bride-
582 wealth without the lack of choice involved in the cousin marriage. It is important to bear in mind, however, that the sample given above is by no means representative of the entire tribal population. Furthermore, the material presented above was based on the actual marriages at the

582 time of the study. I have no information about the marital history of
[114] the men included in the genealogies. This is particularly important if
[586] we realize that the frequency of divorce in the area is quite high and that there is a certain prohibition against ever marrying within a certain degree of relationship of his first wife.

582 According to the Koraan, a man is forbidden to marry certain
779 classes of women. Some of these women are permanently prohibited and others are only temporarily so. Marriage is forbidden with what are called the "maharem" (sing. mahram or non-marriageables). They are one's female ascendants and descendants; the former wives of one's ascendants or desendants; one's sister and the female descendants of one's sister and brother; one's paternal and maternal aunts and the sisters and aunts of the ascendants; one's mother-in-law and all female ascendants of one's wife. Marriage with the first cousin and the half-brother's half-sister (from another marriage) is therefore permitted. The second category of
[853] forbidden women are those related to the man by nursing. The wet nurse takes the place of the mother, and her relatives are treated as if she was the actual mother of the person in question.

In addition to the above, there is the prohibition of the simultaneous marriage of two women who are related to each other to the extent that had one of them been male and the other female, they would have come to the forbidden degree in marriage. This latter prohibition is not a permanent one and is restricted to the marriage of the two women at the same time. As soon as the marriage with one of them is dissolved, there is no prohibition on marrying the other one. Yet, although aware of the lecense given by the Islamic law to such marriage, 582 779 and although they are not considered wrong or sinful, there is a general feeling of distaste among the tribal population to such marriages. They usually attribute this distaste to the fact that if the marriage with the first sister did not work out, there is no reason to expect the marriage with the second to be successful.* Although this might account, in part, for the low rate of cousin marriage in the group when present wives of the individuals are taken into consideration, yet, the effect of that practice should not be exaggerated. For although that prohibition might curb the marriage with the cousin who is the sister of a previous wife, it does not restrict the marriage with another cousin who is a cousin, rather than a sister of the first wife.

584 431 During the period that follows and until the marriage is final, the groom is supposed to bring gifts to the bride. These gifts are usually a wide silver bracelet that is used as an engagement ring. Also gifts of clothes and jewelry are quite customary. Such gifts become the private property of the bride and are to be returned only if the engagement is broken for fault on the part of the bride or any member of her family. In such cases, her father has to return all the gifts his daughter has accepted as well as the expenses that the groom's visitations have cost him.

585 583 779 431 The marriage is affected and finalized by the payment of the bridewealth. In Islamic law the bridewealth is supposed to be paid to the bride herself as a gift and not to her father, which had been a significant departure from the pre-Islamic practice where two types of bridewealth were paid: the sadaqa paid to the father of the bride or her

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[587] * This does not apply to cases where the first wife dies. In such cases, it is not objectionable to marry her sister, although the incidences of sororate are rare among the population.

585 583 779 431 [178] [171] legal guardian and considered a bride price to compensate the father or the legal guardian of the bride. In earlier times the bride received none of the mahr, although she usually got a sadaq or bridal gift for herself. In Islamic Arabia, the mahr and the sadaq became indistinguishable and were given to the woman and took the form of a legal gift for affecting the marriage. [178] The Koraan no longer contains the concept of the purchase of the wife, and the mahr becomes a compensation which the woman has to claim in all cases. The Koraan demands a bridal gift for a legal marriage: "And give them whom ye have enjoyed their reward as a wedding gift" (Sura, iv. 24), and again, "And give the women their dowries voluntarily" (Sura, iv. 3). [586] According to the Koraan, the mahr remains the property of the wife and remains her own even if the marriage is dissolved by divorce. But although it took the form of a gift, the mahr remained in Islamic law a prerequisite for the legalization of the marriage. It is only upon the giving of the mahr that the marriage is considered valid. No marriage is legal, according to the Islamic law, unless that transfer of the mahr is affected. Mutual consent of the two parties to forfeit the mahr does not change that rule, and the marriage is considered void. 58 675 184 According to Muslim jurisprudence, marriage is a contract ('acd) made betweeen the bridegroom and the bride or her wali or guardian. An essential element in that contract is the mahr. The jurists themselves are not sure about the nature of the mahr. Some regard it as practically a purchase money or as an equivalent ('iwad) for the possession of the woman and the rights over her, so it is like a price paid in a contract of sale; while other jurists see in the mahr a legal symbol, a mark of honor and a proper legal security of property for the woman.

583 Among Awlad Ali the payment of the bridewealth signifies the completion
[584] of the marriage contract. The mahr is not paid to the woman but
583 to her father or closest male kin. Usually the mahr is paid in money.
178 This, however, seems to be a recent phenomenon. Until the turn of the
century, according to informants, the mahr was paid only in sheep and
583 goats. The practice is still followed by a number of tribal segments
178 of Ali Ahmar who occupy the western most part of the area where pasture
184 is more abundant and reliable and where the permanent pasture of the
green mountains of Cyrenaica is close by. Other tribal segments still
insist that at least one-fourth of the mahr should be paid in livestock,
583 but the majority of the people accept money. The main purpose of the
[584] mahr among Awlad Ali is to legalize the marriage contract and to put
[182] emphasis on the reciprocal oblications that the marriage created between
the two families of the bride and the groom. It also works as an insurance
for good behavior on the part of both the husband and the wife.
583 If the husband mistreats his wife or fails to give her the rights legally
593 hers by marriage, he risks the chance of losing the mahr and being forced
586 to divorce her. On the other hand, if the wife fails to behave in the
customary way expected from a wife, the husband could divorce her and
have the right to get back his mahr. This is particularly inconvenient
in cases where all or part of the mahr is paid in livestock, in which
case it becomes part of the father's herd and hard to take away in case
of divorce. It is therefore in the interest of her family to keep the
marriage. In this way their interference in the marriage is checked.
[591] This is especially important among Awlad Ali where, although the marriage
[592] is usually patrilocal, the woman retains membership in her father's
household even after marriage.

593 As a girl in her father's household, the woman is under the di-
rect authority of her father, who is responsible for her. When the father
dies, this responsibility, as well as the authority, goes to her brother
or her closest male kin in the order specified earlier. At marriage the
[591] girl usually moves to live with her husband, and this subjects her to
[606] his control and sometimes to that of his parents, if the couple lives
with them. But the authority of the husband over his wife remains
593 secondary to that of her father. The woman's membership in her father's
574 household does not cease with marriage, and the strength of her rela-
tions to her kin is maintained by their frequent visits to her new res-
idence and by her occasional visits to them. This right of visitation
593 574 cannot be denied by the husband who not only has to allow such visits,
606 but is also required to treat members of his wife's family, especially
her father, with great respect and hospitality. If the husband fails
[586] to do so, the wife's father can order her to leave her husband and go
back to his household with him.

This point is illustrated by the case of Muftah from the Esheibat tribe in the area of Matruh, whose older daughter is married to Hemeida from the Geneishat segment, which lives in the area of Fokah some 80 miles to the east of Matruh. One winter day in 1965, while passing near the area where his daughter lived, Muftah decided to pay her a visit. When he arrived, her husband was not at home; he was in the market in a nearby town selling sheep. When he came back late that evening, he greeted Muftah with the customary slaughter of a goat and invited the neighbors to the occasion. After dinner Muftah wanted to rest. It was a very hot night, so his son-in-law brought a rug and spread it outside the tent in the cool air. After that he retired to his tent where he spent the night inside.

593 spent the night inside. In the morning Muftah ordered his daughter to
574 pack her clothes because she was to leave with him. He refused to give
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586 her husband any explanation as to why he was taking his daughter away. The husband could not prevent him from taking her away because, as he said, "He is her father and has the right to take her away with him at any time."

When the wife did not return for two weeks, her husband went to her father's house to take her, but her father refused to let her go. Hemeida
593 then went to a religious man in the area and asked him to intervene in
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606 the matter and see why Muftah had taken away his wife. He also asked him
586 to arrange a mi'ad with Muftah to discuss the matter.

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792 The religious man was selected in this case because he was a close friend of Muftah and was believed to have influence over him. He was also known throughout the area to be fair and of sound opinion. It is important in the cases of disputes that the person selected as a mardi is known as a wise and fair man. It is only then that he is able to mediate between the two parties without being accused of taking sides.
792 The religious men, members of the Murabiteen tribes in the area, by their
619 relative position outside the formal tribal organization of the Sa'adi
627 tribes, are the most likely candidates for such activity. Yet, this is
554 not always the case. For this aspect of assumed impartiality is frequently balanced off by the fact that these religious men lack the support of a powerful tribal segment behind them. To be effective, the mardi has to be respected, not only for his personal qualities, but also for being a member of a respectable tribal segment whose power lends authority to the mardi's decision. This is not usually the case with the client
000 tribes of Murabiteen. Wealth in many cases is also considered an important

Wealth in many cases is also considered an important
792 requirement for the selection of the mardi. This does not mean that
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554 religious men in the area have no role in dispute settlement, for they
[556] do. It simply means that the mardi is selected according to a number
of criteria that vary from case to case, and that in some of these
cases sound wisdom and fairness characteristic of religious men are
not enough basis for their selection as mardis. This means that the
religious men have no special mediatory role based on their religious
nature alone. In certain cases religious men offer the best possibility for mediation; in others, a non-religious person might offer a
better chance for settling the dispute. In cases of women seeking
[586] divorce from their husbands, the wealth of the mediator, more than any-
(556) thing else, seems to determine the selection of the man whom the woman
asks to negotiate on her behalf, a point to which I will return later
in the chapter.

593 The Mi'ad was held in the house of Muftah. Present at the mi'ad
574 were Muftah, his son-in-law, Hemeida, the heads of households in Muftah's
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586 camp (one of them was his brother and the other five were members of
627 different tribal segments), my driver (who was a member of the neighbor-
792 ing Sanagrah tribal segment), myself, and the religious man. After the
tea was served, the religious man said that the discussion should start. He reminded the gathering that this case is a family one and should not develop into a larger dispute. "After all, the daughter's husband is a son, and the case is actually a misunderstanding between a father and a son and should be viewed in that context." Then he turned to Muftah and said that in that spirit he was asking him why he had taken his daughter away from her husgand. Muftah said that he had taken his daughter away

Muftah said that he had taken his daughter away
593 574 to punish Hemeida for what he thought was disrespectful behavior. He
606 then proceeded to descirbe how Hemeida, after bringing the blanket out
586 for Muftah, went inside and spent the night with his wife, defying the
627 792 basic rule of not showing intimacy in the presence of older people,
888 especially the parents or parents-in-law. For, to show such intimacy
is a sign of disrespect. He demanded that Hemeida pay him "kabara"
[681] for his injured pride. The term kabara refers to the adjective "kebir"
[558] (lit. respected or big man). Kabara is the fine paid for belittling
someone by word or deed. Muftah insisted that he would not allow his
daughter to return to her husband until Hemeida had paid that kabara.
Hemeida conceded the fact that intimacy constitutes an insult; but he
insisted that his action did not constitute an act of intimacy with his
wife, but was a matter of convenience and necessity, since he had only
593 two blankets, and the only one left was that inside the tent. Muftah
574 became angry and started shouting at Hemeida, who, in turn, started
606 586 shouting back; it became impossible to follow what was being said.
627 The religious man interfered in the discussion, trying to stop the argu-
792 ment between Muftah and Hemeida. The others attending the mi'ad also
[578] interfered. The religious man and two neighbors took Muftah outside
the tent while Muftah's brother tried to calm Hemeida down. The other
members of the group also calmed Hemeida, reminding him that he was the
younger person and must be more tolerant of older people. They also re-
minded Hemeida that Muftah was his father-in-law and had the right to take
his daughter away any time he chose. They urged him to "defeat the devil"
[681] and to apologize to his father-in-law and pay him kabara. He seemed
convinced but insisted that all he was going to pay was five pounds and
a goat. Muftah's brother and one of the neighbors then left the tent and

593 went to see Muftah and his company. Half an hour later the religious
574 man came and took Hemeida aside and talked to him in a very low voice,
606 then left the tent again. A few minutes more had passed; everyone re-
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627 turned to the tent; Muftah was not angry anymore. The religious man
792 read the fatha, or the beginning sura of the Koraan, then said that the
[779] souls were now pure and that Hemeida was considered as a son of Muftah
and that disagreements such as this should not alter the good relations
between the two. He said that the devil had found his way into the souls
of the two people, but now, thanks to God and the good people present,
they both had come back to their senses. Hemeida then rose and went to
where his father-in-law was sitting and shook hands with him. Then he
[681] handed the religious man ten pounds which the latter passed to Muftah
and promised to send him a goat as a gift to his daughter. Muftah left
the tent and went to the tent of the women. When he came back he announced
that a goat had been slaughtered and that everyone was invited to eat.
Everybody then left and Muftah promised to return his daughter to her
husband the following day.

593 While the right of the father to take his daughter away from her
606 husband constitutes a check on the authority of the latter and insures
557 the wife good treatment by her husband and her in-laws, not infrequently
586 that right has been invoked for personal or individual interest on the
part of the woman's father or her closest male kin. Several cases have
[429] been cited in the area where the father or guardian had invoked the right
to force the husband to concede to certain demands of the wife's guardian,
even when the wife objected to those demands or disagreed with her guard-
ian. One of these is the case of Mabroka who is married to a distant

593 606 557 586 member of the same tribe. At the time that the dispute had occurred she had been married for fifteen years and had four children ranging in age from thirteen to two years. The husband possessed a piece of land on the coast where a few olive and fig trees were growing. The husband, Mukheimer, made no use of either the land or the trees. Then, in 1966, the father became employed by the government organization in the area where his daughter and her husband lived and where the land was. He asked his son-in-law to give him the right to use the land for one pound a year. Mukheimer, who at that time worked part-time for the same government organization as a driver, refused. The reason was that his job with the government made it possible for him to apply for a power pump to be installed over the Roman well that existed on the land, and he intended to utilize the land himself. All attempts to convince Hukheimer to let him use the land failed. Then one day Mukheimer came back to his tent to find that his father-in-law had taken his wife and the youngest child and left the other three children with the second wife. The father-in-law told the second wife to inform Mukheimer that if he wanted his wife and child back, he had to think about the land he wanted to take possession of. Mukheimer tried to discuss the matter with his father-in-law, buth the latter refused to see him. After a month there were rumors that the daughter was not happy that her father had taken her away from her husband and children and that she wanted to go back to her family. She asked a number of people to help her, including myself, since her father was one of my informants at that time; but he insisted that the only way Mukheimer could have his wife and child back was by giving him the rights to the land. Mukheimer, on the other hand, threatened to divorce his wife and marry another woman if his father-in-law did not return his wife.

593 606 The case persisted for more than two months with no sign that either
557 party was willing to give into the demands of the other. I left the
586 area before any solution to the case was achieved.
[114]

584 Another relevant case is one which involved a dispute between
578 Hassan Hassanein from the Sanagrah tribe and the father-in-law of his
606 daughter who was also from the same tribe and who lived in the same
area. The case started when Hassanein was visited by a friend from the
[574] Esheibat tribe in Matruh, an old man of 60 or 70 years. During the night
that this guest spent at Hassanein's house, they got to talking about
marriage and the fact that although his guest was a wealthy and re-
[595] spected man, he had only one wife. After a lengthy talk, it seemed
that the old man was convinced that he should have a second wife and
asked Hassanein if he knew of a suitable girl to marry. Hassanein sug-
584 gested his daughter's sister-in-law. Hassanein took the prospective
583 groom to the tent of his daughter's father-in-law and discussed the
578 606 matter with the father of the prospective bride who agreed to marry his
daughter to Hassanein's guest if he paid the sume of 200 pounds, in ad-
dition to slaughtering a number of goats and presenting him with the
[779] appropriate presents. When the man agreed to the terms, the fatha was
read to signify the agreement between the two parties. Hassanein left
the man to spend the night in the camp of his future in-laws. In the
morning the groom told the bride's father that he must go to nearby
Alexandria to bring the money for the bride price. When he came back
late that afternoon, he paid the money and set a date for the wedding
the next Thursday and then left for Matruh to prepare for the arrival
of the new wife.

584 578 Two days after the groom left, the bride's father (who is at the
606 same time Hassanein's daughter's father-in-law) came to Hassanein and
686 told him that the marriage was called off and that he should send a
letter to the groom telling him the news. The reasons given by the
[574] bride's father were that the groom showed improper manners when he
[576] stayed overnight at the camp and that he followed the prospective bride
to the water well to have a close look at her. He gave the money to
Hassanein and asked him to return it to the man in Matruh. Hassanein
was very disappointed and considered this an insult to him, since he
was the mediator in that marriage, and insisted that the bride's father
584 go on with the marriage. When the latter refused, Hassanein went to his
578 daughter and ordered her to leave with him. Her husband was there and
606 could not refuse to let her go with her father, even when Hassanein
686 made it clear that her husband could not have her back unless his father
627 586 kept his agreement with Hassanein's guest. Elewah, the daughter's husband, asked for a mi'ad to discuss the matter with his father-in-law.
The mi'ad was held in Hassanein's house and was attended by Hassanein,
his son-in-law, and two people from a different lineage, each selected
by one of the disputing parties. Hassanein refused to give any reason
for taking his daughter away from her husband except that he was exercising his rights. Eleway, on the other hand, insisted that Hassanein
was not justified in his actions and that it was not right to punish
him for something that his father did. The two representatives tried
to calm both parties and to reach an agreement but were not successful.
The mi'ad dissolved with Hassanein not only insisting on keeping his
daughter, but also threatening to marry her to a rich man in the area.
The case was not solved by the time I left the field.

593 586 Taking his daughter away from the marital residence is treated as an undisputed right of the father. This is true whether he is justified in his actions or not and whether the girl approves of her father's decision or not. The general view is that the father, having raised his daughter, is entitled to her obedience and that taking her away from her husband, even against her will, is the symbol of authority over her. It also signifies that the girl has someone to look after her, to protect her and prevent the husband or any member of his family from mistreating her. Awlad Ali differentiate, however, between cases in which the father has exercised his right in an arbitrary and unreasonable manner and those in which he has reasonable grounds for his actions. A father is considered justified in taking his daughter away if her husband or members of his family fail to fulfill their obligations towards the wife or members of her family. Mistreatment of the woman (the definition of which will be discussed later), and disrespect to members of her family, or preventing her from visiting her family or them visiting her in the customary specified manner are always justifiable grounds. As a [681] justifiable action, the father is not obliged to return his daughter until he gets full apologies and any gifts for the woman or himself that he considers as kabara. If the husband refuses to concede to the demands of the father, the latter can force him to divorce her without having to return the bridewealth to the husband. Although the father's right still exists when no justifiable grounds are present, in this case he is required to return his daughter to her husband after a short period. If he refuses, [681] the husband is entitled to ask for a kabara. He also can divorce his [583] wife and is entitled to get back his mahr and possible all the marriage expenses. It is this possibility of having to pay back the mahr and

593 586 and expenses to the husband that constitutes the most important check
(583) on the otherwise undisputed right of the father to take away his
daughter.

593 The woman, on the other hand, cannot refuse to go with her father,
562 for this means that she would be disobeying him. A woman who disobeys
586 her father is not worthy of his name. He can cut her off from the
family, which means that she is left without any support or protection. A woman who is cut off from her family is left vulnerable to her husband and to society. She will have nobody to defend her or to be responsible for her actions. The responsibility for the woman's behavior is not transferred by marriage to the husband or his family.

682 If the woman kills or assaults someone or causes damage to property
683 for which compensation is required, her male kin pays the blood money or
602 the compensation on her behalf. It is sometimes stated that if the woman
613 562 has grown-up sons, they, and not her family, pay for her. Since the
593 children belong to their father's family, it may seem like transfering
the responsibility for the woman's actions to her husband's family. However, in all three cases where this happened, the woman was quite old, her father was dead, and her brothers were either dead or had moved outside the area and had cut off all relations with the area. She also had no nephews in the area. In such cases, the sons were the woman's closest male kin.

682 On the other hand, if the woman is the victim of murder or assault
683 for which blood money or compensation is to be paid, the husband is the
593 562 one to benefit from the situation. To understand why this happens, we
have to consider the contractual nature of marriage among Awlad Ali. It
584 583 has been mentioned earlier that before marriage is final, the prospective

584 husband or his father pays the woman's father the bridewealth, or mahr.
583 In exchange for the mahr, the husband expects his father-in-law to out-
fit his daughter with such items as rugs, blankets, and a few other house-
hold items, like cooking pots, serving dishes, and a metal or wooden chest
[422] to keep her clothes in. These items become the private property of the
wife, but the husband has the right to use them. In addition, the man
581 expects to gain certain rights to the woman. The customary law of Awlad
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585 Ali gives the husband three basic rights over his wife: the right to her
sexual services (including the right to bear him children); the right to
her labor in domestic activities; and the right to her obedience. Of the
three rights, the first is the most exclusive. Not only doesthe husband
have a complete monopoly over his wife's present sexual services, but he
also has the right, if the girl has never been married before, to be the
[583] first to use such services. If he discovers that she is not a virgin, he
can send her back to her father and get back his mahr.

581 The other two rights are not as exclusive. The husband's right to
585 his wife's domestic labor does not prevent her from occasionally helping
593 out in her father's or brother's household, especially if they live nearby.
Finally, the husband's right to be obeyed by his wife is always subordinated to that of her father, who retains the ultimate authority over his daughter.

682 If the woman is killed or injured, the husband is deprived of all
683 or some of her services, depending on the seriousness and the permanence
581 of the injury, and therefore is entitled to compensation. The right of
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593 avenging the woman's murder remains, however, that of her family, since
she is still a member of that family.

684 The contractual nature of marriage is most clearly manifested in
613 the case of the wife's adultery. Since the woman belongs to her ag-
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593 natic group, her behavior has direct effect on the honor of that group. It is, therefore, the responsibility of her closest kin to keep an eye on her. If the woman commits adultery, it is her father or her male kin who is supposed to avenge the honor of the family by taking drastic actions, including killing, against the adulteress and/or her partner. But the marriage usually takes the woman away from the close watch of her family and puts her under the supervision of her husband who becomes entrusted with the duty of guarding her, and therefore partially responsible for her action. His responsibility is enhanced by the fact that although the wife's behavior does not affect him or his family, it has a definite effect on the honor and reputation of his children (Abou-Zeid, 1965).

684 The gravest insult that one can direct to a person in the area is
578 to describe his mother of being of disrepute. In their joking relations,
562 young men usually refer to eachother's father as being a dog or a theif
593
[522] or a cheat, but none could refer to the mother. A woman of questionable reputation affects the reputation of her family in general and her children in particular. Any reference to the mother in the form of an accusation is supposed to be cleaned only by blood. Not only does this apply to the woman's voluntary behavior, but also to her physical and mental
(934) condition. If a woman loses her mind, the news is usually kept a secret,
684 especially by her children. The responsibility for retaliation in the
613 case of adultery, then, is divided between her nearest kinsman and her
562 husband. This gives both sides a vague and undetermined right of re-
593 venge. This division of the right of revenge explains the infrequency

684 of drastic actions taken in cases of adultery. Of the fourteen cases
613 562 of adultery that I examined furing my field work, none resulted in the
593 killing of the adulteress, and only three resulted in the murder of her
[114] partner. In all three cases where the adulterer was killed, the avenger
684 682 was the husband; and in all three cases, the husband had to pay the
613 bloodmoney to the murdered man's kin group. His payment of the bloodmoney, among other things, may indicate that the right of the husband to kill the adulterer is not completely accepted among Awlad Ali. All
[628] agree, however, that such killings never result in blood feuds because of the shameful circumstances in which the victim dies.

684 It was very difficult to obtain any detailed or reliable information
126 about adultery cases. All the above mentioned fourteen cases were gath-
[124] ered from the informants, twelve of which were cases which had already been solved. For the two cases which were still open at the time of the study, information was quite vague. Usually such cases are conducted with a great amount of secrecy, with the involved parties referring to them as cases of theft, or merely by saying that the cases involve women. Only when the adultery leads to the killing of the adulteress or the adulterer are more details publicly known about the case.

684 But while the right to retaliate for the shameful action of an adulterous wife is vague and diffused, the right of the husband for compensation from the adulterer remains clear and undisputed. In this resepct, adultery is treated very much like theft; the adulterer has stolen the husband's exclusive right to his wife's sexual activities. The com-
[588] pensation for this offense is estimated at L.E. 20, in addition to the
[586] mahr, if the husband decides to divorce his wife as a result of her adultery.

681 The ten pounds paid to the husband in this case is considered as
558 a kabara for the husband's injured pride. The kabara is one of the
[684] vaguest and least determined fines in the tribal law. As a face-saving
device, it varies from one case to another. It is determined in each
case by the seriousness of the insult, the publicity of that insult
(insults in a public place require a much larger kabara than insults
[561] in a private place). The relative age of the insulted and the offender
is also taken into consideration in assessing the kabara. If the insulted
is older than the offender, the kabara is much higher than if the
situation were reversed. In fact, in the last case the insulted might
[554] not be able to collect any kabara at all. The relative status of the
two parties is also a factor. A member of a Murabiteen tribe who insults
a Sa'adi is likely to be charged with a larger kabara than the reverse
situation. The amount of kabara is left for the bargaining of the two
parties and their representatives and varies greatly from one case to
another. As such, the kabara is not exactly a fine or an independent
punishment. In most of the cases it is an additional punishment added
to a regular one. It is hard to imagine a crime in which the victim is
not considered in one way or another insulted or belittled. The only
681 specified kabara that I found in the tribal law was in the case of adultery.
558 The kabara in that case is the same regardless of the relative
684 position of the people involved. The kabara differs, however, according
to a standardized set of circumstances surrounding the place in which the
adultery is committed. Adultery committed in the husband's tent requires
kabara of the maximum L.E. 20; adultery within the camp of the husband
but outside his tent can bring a kabara of only L.E. 10, while adultery
committed outside the camp brings a mere L.E. 5. The justification for

681 this variation is that committing the adultery within the camp of the
558 684 husband constitutes a greater humiliation, since it affects his honor
among his neighbors. Also, adultery inside the tent of the couple carries with it the possibility of rape, while adultery outside the tent at least implies an element of consent on the part of the wife. The
[583] penalty in the case of adultery is the return by the wife's father of the mahr and all other expenses of the marriage ceremony and the gifts the husband had presented during the engagement period. This is a further indication that the father of the wife is still responsible for her behavior even after she is married. It is in this respect that the crime of adultery differs from theft. In the case of theft, the
[685] thief has to return twice the amount stolen and in the case of repeated offenders, four times the amount stolen. This is in addition to a certain amount of money as kabara. Yet, in the latter case the kabara is not specified and is subject to the proof by the victim that the theft constituted an insult to him. This insult is assumed in the case of adultery, which makes the kabara in the case of adultery part of the punishment--an integral part of the punishment. The kabara is not among
[613] the collective responsibility of the amar and is paid only by the person involved, unless he is totally unable to pay or refuses to pay. In such
426 593 cases, his closest male kin (his father, son, or brother) pays on his
681 behalf with the understanding that such payment constitutes a debt which
684 should be repaid. The person paying on his behalf in this case can go
558 to his tent and take by force anything of value, such as blankets, utensils, or even sheep and goats, and keep them as pawns until the debt is paid.

581 Marriage does not deprive the woman of some rights of her own.
585 562 The customary law gives the wife three basic rights corresponding to
671 those of the husband's sexual services, domestic work, and obedience.
Corresponding to the first of these, the wife has the right to have a
normal sexual life with her husband. This right, however, is not an ex-
clusive one, since the husband can marry more than one wife. A woman
585 can be divorced from her husband without having to return the mahr if
586 she claims that the husband is unable to perform his sexual duties. In
593 such cases, the marriage is usually dissolved quietly. In certain rare
585 instances, the husband may deny his wife's accusations. If both insist
586 on their stand, one or both may ask to be submitted to "bait el-shana'a,"
593 or house of the dreadful deeds. Reports are extremely vague about the
627 exact procedures involved in this case. Some informants stated that the
married couple would live in a tent without sidewalls so that everybody
could see what goes on inside. Most informants, however, insist that it
merely means that the couple move their tent near that of a respectable
man whose word is believed and honored. This man is supposed to keep a
close watch on the couple's activities, by listening or looking through
holes in the tent. His verdict determines the future of the marriage.
[583] If the wife is justified in her claim, the husband is forced to divorce
[681] her and to forfeit his mahr. If, on the other hand, the verdict is for
[558] the husband, he not only can divorce her and get back the mahr, but is
also entitled to kabara, or compensation, for his injured pride. There
[114] is no case of bait el-shana'a in the area during the time of the field
[178] work, and most people insist that this practice is something of the past
[583] when the mahr was relatively high and was paid in livestock, in which

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586
593 case its return to the husband would have caused great financial in-
527 [114] convenience for the wife's family.

[178] (583) Corresponding to the second right, the husband's right to his
581 wife's domestic work, is the wife's right to maintenance. The husband
585 has to support his wife. This includes providing her and her children
562 with adequate food and proper clothing. If the husband fails to do so
593 because of poverty, sickness, crop failure or unexpected disaster, the
wife's brother or father provides her and her children with the neces-
[586] sary food and clothing. If the husband's failure to fulfill his duties
is due to neglect, the wife can leave him and go to her father or brother
who talks the matter over with the husband who, in turn, either agrees
to their demands or has to divorce his wife and forfeit his mahr.

593 Finally, corresponding to the husband's right to his wife's obedi-
562 ence is the wife's right to fair treatment by her husband. There are a
[779] number of ways in which the wife is mistreated. One is excessive punish-
ment; although the right of the husband to punish his wife is provided in
the Koraan, the punishment must be excessive or severe. Awlad Ali draw
a line between acceptable and severe punishment. A punishment is severe
if it results in something that other people can see or hear. If the
husband insults his wife or her family and others hear the action, or if
he beats her and this results in visible traces, then the punishment is
severe.

593 A wife considers herself mistreated if the husband, when married
595 to more than one, treats any of the other wives better than he treats
562 her. Although the wife cannot deny her husband the right to have ad-
ditional wives, he must give them all equal treatment. This includes

593 providing them with the same kind of food and clothing.* It also includes
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562 dividing his time equally between them, spending one night in
each wife's tent. The first wife, being the chief one, has certain privileges: her tent is the guest house, food is brought to her residence, and she is the one to divide it among the other wives, and her house is the place for the husband to stay if he becomes sick and unable to move every night from one tent to another. Other than the exceptions given to the first wife, the husband has to treat all his wives equally.

593 Normally, such cases of mistreatment do not result in divorce unless
[586] they are persistent. In most cases, if the wife is mistreated, she
goes to her father's or brother's house or sends for them to come and
593 take her. For the husband to bring her back to his tent, he must pay
431 her "nasafa." This is a gift given by the husband to his wife as an
acknowledgement of guilt and as a form of apology for not giving her fair treatment. In some cases the nasafa is equal to what the husband originally paid as mahr.

581 These are some of the rights that marriage gives both men and women
585 in the tribal society of Awlad Ali. These rights, however, are useless
626 unless they are backed by certain means of enforcing them. The husband's
586 rights are guaranteed by his ability to dissolve the marriage at will.
626
593 According to Islamic law, a man can divorce his wife by simply pronouncing
the sentence "I divorce you" in the presence of credible witnesses.
[779] No justification for divorce is demanded from the husband according to
[562] the Koraan. No such privilege is given to the wife. She can obtain a

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* With provision for wives with more children.

586 divorce only under specific circumstances in the absence of which the
626
593 husband can force her to live with him. Following the Koraanic rules,
[562] Awlad Ali give men the right to dissolve the marriage at will and with-
[779] out any necessary justification; however, they differentiate between
cases where divorce is justified and those in which it is not. In a
case of justifiable divorce, the husband can take back the mahr and possibly all other marriage expenses. In the case of unjustifiable divorce, the husband forfeits his right to regain the mahr. Divorce is justified whenever one or more of the husband's rights are violated by the wife or members of her family. Not all degrees of violation are considered as justification for divorce, however. Only intolerable violations can be considered as such. In deciding whether or not an act constitutes an
[183] intolerable violation, Awlad Ali judge it against the standard of the
reasonable man, the customary man, and what he would have tolerated in a similar situation.

586 What constitutes reasonable behavior does not only vary according
183 to the situation and the manner in which the actions are taken, but also
554 with the relative position in the social structure of the parties in-
volved and their initial relations to one another. In the case of divorce, what constitutes grounds for justifiable divorce in one case may
586 not be sufficient grounds for justifiable divorce in another. In one of
183 the cases I witnessed during the year of study, a man who divorced his
554 wife because of her insistence that he buy her meat from the market
511 every day of the week, was forced to forfeit his right to redeem the
[114] mahr on the basis that the wife's actions had not established a basis
for justifiable divorce. In the negotiations that followed, the position of the husband, as well as that of the family of the wife, were discussed.

586 The husband had a big herd by the standards of the tribe (600 sheep
183 and goats). In addition, he also cultivated a large stretch of the fig
554 land in the coastal area and was making good money. In other words, the
511 husband could afford the standard of living the wife demanded. The other
question that was discussed was the actions of the wife herself. She was
the daughter of one of the wealthiest members of the same tribe as her
husband; and according to the people who knew her, she was used to meat
every day of the week. In other cases, similar demands by the wife to
have a certain kind of food or to be clothed in certain kinds of material
were considered as an intolerable situation, and the husband was justified in his divorcing her and had the right to retrieve his mahr. This
was obvious in the case of one of my informants whose wife insisted that
every time he went to Alexandria, he bring her silk material for a dress.
Since the husband could not afford to meet her demands, her insistence
was considered as grounds for the husband. The assessment of reasonable-
586 ness on the part of the husband in his divorce action and therefore his
183 right to the mahr paid is frequently influenced by the relative position
554 of the husband and the wife's guardian in the social structure. An influential man who marries his daughter to a poor relative or nephew rarely
has to return the mahr.

586 Although women among Awlad Ali are not given the same legal right
562 of divorcing the husband by pronouncing the "dismissal formula," they are
given the right of certain customary procedures which in practice give
them equal facilities for dissolving the marriage. This is known as the
574 right of the woman to "throw herself." This means that the woman takes
all her clothes and sometimes her children and goes to the dwelling of

586 the man she chooses. She informs him before she enters his house that
562 she is the wife of so and so and the daughter of so and so and that she
574 is throwing herself on him to protect her from her husband with whom
she no longer wishes to live. Like the right of refuge, the man cannot
[778] refuse to let her in; and from this moment until her dispute with her
husband is resolved, she is considered as his house guest and is entitled to all the hospitality a guest receives. If he refuses to ex-
[627] tend that hospitality or refuses to take her in, she can ask for a mi'ad
[681] and is entitled to kabara from him. There has been no reported incidents in which a man refused that right to a woman. As soon as she settles down in the host's house, the latter takes immediate measures to find the husband and to convince him to let his wife go. In doing this, the man uses all the power of persuasion. The man selected for this purpose
586 is usually a respected man who can put pressure upon the husband. Some-
562
574 times he has to bribe the husband to release the wife, paying from his
554 own money. The man has to have money, not only to be able to support
[556] the wife during her stay in his house and to bribe the husband, but also because in certain instances he has to pay the husband the mahr that the father of the wife had taken in order to free her. The next step after getting the agreement of the husband to divorce his wife is to contact the father of the wife or her guardian and convince him to pay the mahr to the husband. If the father does not agree, or if he is financially unable to do so, the man on whom the woman has thrown herself is supposed to pay from his own money. In cases where the woman left the husband to be married to another man with whom she had had a relationship, the respected man tries to have the future husband pay the present husband the mahr he is supposed to pay the woman after she is divorced from her

586 562 husband. In a number of cases the husband was willing to divorce the
574 woman after a promise by the man that she would pay him the mahr when
554 she got married. In most cases, however, the process costs the man a considerable amount of money. Sometimes, when the woman is young and attractive, the man finds it to his advantage to keep her as his wife, since she will cost him no more expenses. On the other hand, the man cannot refuse a woman the right of refuge, since to do this or to deny her the right of hospitality will make him liable to pay kabara if she made the refusal known publicly. On the other hand, it is prestigious to be known in the area as a man to whom women go to be released from their husbands. In fact, a man who acquires a reputation of getting wives released is likely to be sought as mardi in other cases as well.

Due to the nature of his role in mediating, the woman must be careful in selecting the man over whom she throws herself. These considerations are manifested in the following case taken from my field notes.
[584] Hadia was forced by her father to marry a man from the same tribe who
[583] paid her father L.E. 100 as mahr. She did not want to marry him because she was in love with someone else of whom her father did not approve. One month after she was married, she left the tent and never came back.
586 Later, she appeared in the house of Omda Ali, the chief of another tribe,
562 and everyone knew that she had thrown herself on him. She later told me
574 554 why she had selected Omda Ali and not the Omda of her own tribe. "Be-
634 cause my husband works for the Omda of my own tribe, and I thought he would be biased. Of course, I couldn't have gone to my father; he was the one who forced me to marry that man. Omda Ali is very respected and can support me... He is also rich and is known for releasing wives from their husbands." Omda Ali called the husband in and asked him to divorce

586 his wife. The husband agreed but insisted that she pay him L.E. 300
562 (this included the mahr and the marriage expenses). The Omda tried to
574
554 reduce the amount but could not. He then tried to get the father to
634 pay, but the father refused. He had to pay the husband L.E. 200 of
his own money and promised that the rest would be paid when the woman
remarried (it would be paid from the mahr). The husband divorced Haida.
One week later she was married to her lover. I have no information
about whether or not the 100 pounds was paid.

586 In another example, Sabha was forced by her father to marry her
562 cousin (ibn 'amm). She could not live with him, so she threw herself
574
554 on one of the holy men in the area. The holy man convinced the hus-
792 band to divorce Sabha and then went to her father and convinced him to
pay back the mahr to the husband, and the case was settled. People say
(626) that both the husband and the father agreed to the demands of the holy
man because they were afraid of his supernatural curse. Sabha went
back to her father's house.

586 It is obvious from these and similar cases that the success or
562 failure of the procedure depends on the careful selection of the man
593 on whom a woman throws herself. It is also apparent from the above
(554)
(574) examples that his right of refuge is resorted to only in cases where the
woman cannot go to her father or to her closest kin to help her get a
divorce because he is either unable or unwilling to help her. A father
is unable to help if the husband is powerful or if he is the woman's
ibn 'amm (father's brother's son) who has, according to the tribal law,
the undisputed right to marry his bint 'amm (father's brother's daughter).
The father is usually unwilling to help his daughter if he is the one

586 562 who forced her to marry the husband, or if she was cut off from the
593 family for some reason or another.

586 From the frequency of women using this right in the area, it
562 seems that no social disapproval is associated with it, nor is there
574 a social stigma attached to women who throw themselves. They seem to
626 find it as easy to find a husband as those women divorced voluntarily
by their husbands or with the help of their fathers. In fact, as was
586 562 mentioned earlier, many of them marry the rich men over whom they
587 throw themselves. As to the amount of mahr paid for their subsequent
[583] marriages, the fact of throwing themselves does not seem to be a factor
[574] in determining the amount of mahr paid. In one of the cases, the woman
threw herself on an 'aqila of one of the Geneishat tribe after her
father refused to help her get a divorce from her husband who had married
a second wife without first asking the first wife's permission.
[429] When the Geneishat member succeeded in convincing the husband to divorce
his wife, the latter had no place to stay so remained in the
house of her protector who acted as her guardian in place of her father
[583] who had refused to take her back in his home. While staying in the
house of her protector, she got many marriage offers; one of the suitors
offered a mahr of L.E. 4,000 ($10,000), one of the highest mahrs reported
in the area. She agreed, and the marriage was affected. This
mahr is about ten times the mahr she got for her first marriage. This
586 562 procedure offers the woman a considerable guarantee of her marital
rights. It also gives her, as far as the ability to dissolve the marriage,
a status close to that of her husband. This relative equality
is reflected is reflected in the lack of stigma associated with divorced

586 562 women in the Western Desert, and that the women usually have no difficulty in finding another husband.

586 562 593 768 While the right of "throwing herself" offers the wife some guarantee of her rights, her main guarantee is derived from the security she gets from retaining membership in her father's family. After the death of the father, the woman's claims extend to the households of her brothers. She acquires in them the same rights she had in her father's household, and the brothers take the responsibility of their father in [428] protecting and defending their sister. The woman achieves this continuation of support partially through forfeiting her rights of inheritance to her brothers.

562 428 [199] Awlad Ali recognize the right of the daughters to inherit in their father's estate. They accept the system of inheritance specified in the Koraan which gives the woman half the share of her brother. In practice, this is usually side-stepped. Only sons inherit their father's [233] [311] property. The justification given for the non-inheritance of women is that the main items of inheritance in the Western Desert, livestock and the right of land use, require certain protection and care which are be- 233 562 428 yond the culturally defined roles of women. Livestock require moving from one grazing ground to another, almost always crossing tribal lands belonging to various tribal segments, some of whom might be hostile. It also requires the ability to protect the herds from predators and from raids, especially in earlier times. Similarly, land requires preparation and protection against trespassers, especially when the barley is growing.

562 428 593 Women, however, are supposed to be compensated by their brothers for their shares. But very few would actually ask their brothers for

562 such compensation. In forfeiting her rights of inheritance, a woman
428 secures for herself and her children the continuous support of her
593 kin-group and the protection of her rights. This support was denied
in the few cases I was able to collect in which the woman demanded her
share of inheritance. The following is one of these cases. The material
159 presented is a summary of the life history of Fatma, who at the time of
562 428 the study, was a shopkeeper managing the small general store she owned
593 near the railroad station of Burg el-Arab, some fifty miles west of
[444] Alexandria. She also practiced healing and midwifery on a part-time
[759] basis.

Fatma was the only daughter with four sons of sheikh El-Asi, who
at one time was the aqila of bait Hussein of the Sanagrah tribal segment
[627] in the area. He was also known as a mardi and was frequently sought in
[755] mediation of disputes. He was believed to have supernatural power which
he used to cure people for a certain amount of money. During his lifetime,
[454] he had acquired a sizable sum of money which he invested in live-
[233] stock. At the time of his death his herd, which numbered more than 900
[422] sheep and goats, was considered the finest in the area. He had no barley
[423] lands because his camp was deep in the desert, but he had fine grazing
land.

Throughout the area the four sons were known for being arrogant and irresponsible. Three of them were employed by one of the irrigation projects carried on by the government in the area as construction workers; the fourth looked after the herd of his father. All four were known as chasers of women, and they frequently went to Alexandria to visit prostitutes and drink liquor.

[444) Fatma was first married when she was eighteen to a man from Alexandria who had opened a general store in the area where her father

159 lived. Five years ago the husband died in a mining accident leaving
562 Fatma with a ten-month-old boy. By that time, her father had been disabled,
428 and her brothers wanted to manage her husband's store on her behalf.
593 Knowing that her brothers were greedy, she refused and insisted
444 that she take care of the store herself. The brothers objected on the
grounds that it was not customary for a decent woman to be exposed to
the customers in the store. When she insisted, the brothers threatened
her. When the threats did not work, they beat her. After that, she
[625] went to the police station in the area, filed a complaint against her
brothers, and asked for police protection. The police officer in charge
brought the brothers in and warned them that if they interfered with the
store, not only would he arrest them, but he would also use his influence
to get them forced from the irrigation projects where three of them
worked. The threat worked, and they became friendly with their sister,
buying things for the store whenever they went to Alexandria and sometimes
helping in the store with her consent when she was on housecalls
159 as a midwife. A year later Fatma was married for the second time to a
562 distant cousin; a few months later her father died. In a family meeting
428 that followed the funeral, Fatma made her announcement that she was claiming
593 her share of her father's herd. The brothers were angry and tried to
233 [587] beat her. But the older members of the bait who were present at the meeting
stopped them and told them that Fatma had all the right to claim her
share of the inheritance according to Awlad Ali ways and that there was
[578] nothing that they could do about it. She was characterized in that
meeting as "bint haram" (illegitimate child), an insult used to refer
to those who show selfishness in their kinship obligations. When she
left the camp with her share of the herd, this seemed to have severed

159 the relationship between her and her brothers.

562 428 Following her action and until the time of the study, they had
593 never visited her and she had never visited them. Her husband took
[237] care of the herd; and the arrangement worked out all right until the
159 husband told Fatma one day that he was going to marry a second wife.
562 593 She refused, but he went ahead with the marriage without her consent.
595 He brought the new wife to live with Fatma in the same tin hut in which
they were living. He started to pay more attention to the new wife and
to neglect Fatma; whenever the latter complained, he beat her. Then,
before one of the religious feasts, he sold two of Fatma's sheep and
bought his new wife a dress and a silver bracelet. When Fatma objected
[164] and they argued, he hit her with a stick on the head; she was hospitalized for a week with a serious head wound. While in the hospital, she
went to her brothers who lived only two miles away, but they refused to
159 come to her assistance. She then went to sheikh Elewa (the aqila of
562 Bait Assabei) and threw herself on him. He met with the husband and con-
574 593 vinced him to divorce Fatma. He kept forty sheep of Fatma's herd as com-
595 pensation for the mahr he had paid her and the marriage expenses, then
586 took his new wife and moved from Fatma's hut. Fatma then returned and
159 managed her financial affairs successfully herself. She managed the
562 444 store and hired a shepherd to take care of the sheep. At the time of
[233] the present study she was respected by almost everybody in the area, including members of the local administration. She is known to be reason-
[429] able and of sound opinion, and her store functions as the meeting place
[521] for many of the tribal mi'ads and for casual conversations. She is also
considered as a liason between the tribal population in the area and the
local government administration, and is respected by both sides.

159 This apparently is not a typical case, nor is Fatma by any means
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562 representative of a typical tribal women. It is a case of a marginal
woman who had revolted against the tribal definition of a female role.
428 She violated the customary ways of her society and claimed her share of
593 her father's inheritance; and by doing this, she forfeited her right to
183 protection by her brothers. She was able to do this because of her mar-
625 ginality which enabled her to draw upon sources of protection outside
the tribal pattern, the police. It is interesting to note here that by
doing so, she was not totally eliminated or ostracized from her society;
rather, her role was redefined as that of a man, and she was treated
as such.

CHAPTER VI

HOMICIDE AND BODILY INJURIES

Part 1: Homicide

579 Fighting is quite common among Awlad Ali. Many of these fights
involve a large number of individuals and result in many casualties
579 and sometimes even deaths. Fighting is considered "shar," or evil,
673 for according to Awlad Ali, it threatens the social cohesion which is
182 highly valued in the area. Yet, although undesirable, fighting and
[682] even homicide are not considered a crime against society and sometimes
are viewed as necessary to safeguard individual and collective rights
in the absence of an established authority which could protect these
[177] rights. Although this absence of an authority is remedied now by the
[692] introduction of state administrative justice, this has not yet achieved
enough efficiency and recognition to replace the old tribal system.

619 In the tribal system, there is no concept of individual punishment
681 inflicted upon the suspect. There is no recognized authority to inflict
692 it. The mardi or the 'aqila who performs the function of dispute settle-
[629] ment in the case of homicide has no power to pass or inflict any punish-
ment. His role is restricted to mediation between the two parties involved
682 as was earlier mentioned. Homicide, like all other wrongs among Awlad Ali,
673 are private wrongs affecting the individual or a group of individuals.
[182] The main purpose of the tribal proceedings in the case of homicide is to
restore some form of harmony and order among the group. This harmony is
sometimes restored by killing the murderer or any member of his vengeance
682 group, or amar. Feuds may result from such killing, and a few instances
628 of feuds have, in fact, been recorded in the area (although not in the

682 last two decades). But a feud in the form of extensive, long-term kill-
628 ing between two groups is very rare among Awlad Ali. The principle of
life for life upon which a feud operates would rarely lead to a permanent
settlement or peace, even when the sense of revenge is satisfied for the
682 moment. Among the group, this form of permanent settlement is more likely
to be achieved through the payment of bloodmoney, or "diyya." The pay-
ment of the diyya is based on the assumption that the group has lost,
in the deceased, an economic asset. It has been deprived of his ser-
vices, both in supporting his immediate family and in the collective
activities of his amar. This is illustrated in the distribution of the
bloodmoney. Only half of the bloodmoney is paid to the immediate fam-
ily of the victim, the other half being divided equally among adult
males of his amar or vengeance group. This is intended not only to
satisfy their sense of indignation and curb their desire for revenge,
but also to insure that when the time comes to share in the payment of
the bloodmoney, they will pay.

628 The cessation of feuds in the area seems to coincide with the cessa-
619 tion of inter-tribal and intra-tribal warfare. During the era of tribal
726 warfare, the killing of a tribesman meant the loss in the fighting power
178
of his tribal segment, and feuding, with its emphasis on life for life,
had the purpose of restoring the balance in fighting power among the
[682] groups involved. Monetary compensations were not known in the area dur-
ing that time, according to the informants' accounts, but they were usu-
ally restricted to cases where either the victim or the killer was a
178 non-tribal person. With the cessation of tribal warfare, the death of
682 a tribal member became more an economic, rather than a political, loss,
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726

178 682 and compensation became more and more accepted in settling murder cases
[619] among the tribal population. Bloodmoney, or diyya," was established
[729] among compensations for injury in general. This scale of compensation
682 is based on the amount of loss of normal activities the injury caused
the victim with death being the total loss of such activities. The
compensation for homocide is estimated at L.E.400 for intentional killing, and L.E. 300, for unintentional killing. Although reference here
682 673 is made to "intention," the assessment of that intention and its defini-
672 tion are quite different from the general usage of that term among modern jurists. Among modern jurists, the term refers to a state of mind which implies that the offender willfully and knowingly committed the prohibited act. This means, first, that the person is able to recognize the nature of his act and to distinguish between right and wrong. Secondly, it means that the person was in a position to choose between committing the act and not committing it and took the former path. According to this view, individuals under temporary or permanent insanity, children under the legal age (the definition of which varies from one legal system to another), non-human beings and objects are not capable of having criminal intent, since they are incapable of having a will of their own. Similarly, individuals who are capable of having a will but, because of certain circumstances their freedom of choice was impaired, cannot also have intentions. Intention, then, in the modern legal conception is a psychological quality that connects the offender with the prohibited result or results. It is this psychological connection that differentiates in modern legal systems between murder and manslaughter, between attempted murder and simple assault, between first and second degree murder, and between justifiable

682 672 673 and unjustifiable homicide. To examine responsibility in homicide among Awlad Ali and their definition of "intentional" and "non-intentional" killing, let us first present some of the cases collected from the area.

CASE #1: The Case of the Broken Rope

682 672 312 [184] [428] This is one of the classical cases which is told throughout the entire area. There is some slight variation in the way it is told, but all accounts refer to the fact that Hemeida from the 'Esheibat tribe inherited the right to use a large area of tribal land in which there was an old Roman well not used for a long period of time and which was full of sand. One day he invited the awaqil of his tribal segment, as well as his neighbors, to consult them on how to clear the well, since without it the land was almost useless. They all decided it was a good idea and offered their help. On the day the well was to be cleared, they all gathered around the well. Among those present was Do'ah, a poor member of the 'Esheibat tribe who worked as a paid shepherd for Hemeida. He was watching from a distance when Hemeida called upon him to give a hand. The well, like all Roman wells in the area, is about fifty feet deep and fifteen feet in diameter, and narrows as one goes down the well. To be cleared, someone has to be lowered by a rope to the bottom of the well to dig up the sand. Hemeida's cousin, Ali, agreed to go down, and the gathering looked for a sturdy rope which they found at one of Hemeida's neighbors. As the group was tying Ali to the rope, Hemeida suggested that Ali was too heavy for the rope and that it would be a good idea if a slimmer man did the job. At this point, everybody looked at Do'ah, since he was the thinnest

682 672 312 person in the crowd. So, Do'ah volunteered to be lowered down to clear the well. He then proceeded to the well, glanced at the bottom of it, and threw a small stone to see if there was any water left in it. The stone made a faint splash indicating that there were a few inches of water. After that, he examined the rope and the equipment used. Satisfied with everything, he tied the rope around himself and was lowered very slowly and carefully by the crowd at the top of the well. As Do'ah was more than half-way down, the rope broke, and he fell. When the crowd called him, Do'ah answered in a faint voice telling them that he was hurt but that he would be all right. The crowd then looked for a spare rope to lower somebody to get Do'ah but could not find any in a nearby camp. They sent a man to get a rope from the next camp, but by the time a man was lowered to get Do'ah, he was dead; he had drowned in six inches of water.

682 672 [625] [613] Since the place of the accident was close to the police station, word got to the officer who, after investigating the case, ruled it as accidental death. But while the government authorities were investigating the case, members of the Bait to which Do'ah belonged were proceeding with the customary ways of Awlad Ali to claim bloodmoney for their dead kinsman. The idea was that a life had been lost, and that regardless of the police investigation, someone must pay for it. The question was who. Since the well belonged to Hemeida, Do'ah's relatives insisted that he was the one to pay the bloodmoney. Not denying the fact that someone had to pay for the death of Do'ah, Hemeida insisted that the one to pay was the

682 owner of the rope, since it was the broken rope that had caused
672 the death of Do'ah. The case stayed unsolved for more than two
months, a record for dispatching of criminal cases in the area.
682 In the final Mi'ad, the main question was whether or not the owner
672 of the rope was responsible for the death of Do'ah, and therefore
627 liable for the payment of the bloodmoney. After extensive negotiations
with the parties involved, Sheikh Seloums, the aqila of
Hemeida's Bait, who had also been accepted by Do'ah's family as
the Mardi in the case, convened the Mi'ad and announced the settlement.
682 His announcement came after reading certain passages of the
672 Koran and reminding the parties that they were all members of Awlad
627 Ali and therefore brothers. He stressed the necessity of all brothers
695 having clear hearts toward one another and not allowing worldly
disputes to leave any impurities among friends. He then came to the
conclusion that there were two things responsible for the death of
Do'ah. The first was Hemeida's decision to clear the well, for had
it not been for that decision, the accident would not have happened.
The second thing responsible was the rope whose breaking was the
direct cause of the death. The responsibility here applies only to
the rope and not to the owner of that rope. The reason Sheikh Selouma
gave for not holding the owner responsible for the death of Do'ah
was that the rope by itself is not a lethal weapon for which the
owner has to exercise a great deal of caution in lending it. To
make the owner responsible for the death of Do'ah would, according
to Sheikh Selouma, discourage anyone from lending anything to his
neighbor for fear of becoming liable for any harm it might cause.

682 "...It means that I will never lend my cooking pot to my neighbor
672 lest his child trip over it and I would be asked to pay his blood-
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695 money."

So, the bloodmoney was divided into two sections, one to be paid by Hemeida, and the other to be the responsibility of the rope, which meant that the victim's relatives only took home half of the bloodmoney.

683 CASE #2: The Case of the Curious Neighbor

682 This is the case of 66-year-old Selouma whose barley land
578 bordered that of Muftah, a distant member of the same tribe. A
672 small area of rocky land separated the two areas. Throughout the time that Muftah was preparing his land for barley cultivation, Selouma used to sit on the dividing rocks, observing his neighbor work on his land and making jokes about the amount of time and effort Muftah was putting into his land, especially when it looked like a dry year, anyway, and no barley would be cultivated. For more than a week Muftah tolerated his neighbor's remarks. "I always said to myself, 'Don't follow the devil... He is an old man and doesn't know what he is saying.' But that day I could not take it any longer. My wife and children were sick, and I didn't have any money to bring them medicine or even food. I wanted to finish preparing the land because it looked like it was going to rain that day. I went to the area I was working on when Selouma started his jokes. I was mad. I took a small stone and threw it at him to scare him and make him stop. The stone hit his leg. It was a small stone, and I didn't think it would harm him. Actually, he stood on his

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682 feet after that and left." It seems that later the wound got infected.
672 Six months after the incident, Selouma was taken to the
[578] hospital with an infected wound, and three days later he died from
that infection. Selouma's son, Ali, demanded that Muftah pay a
full bloodmoney (L.E. 400) for the death of his father, since the
death was directly caused by the wound inflicted by Muftah. Muftah
denied the charges and claimed that the infected wound which caused
the death of Selouma was not the one inflicted by the stone. Mediations
683
682 continued for some time, and when no agreement was achieved,
672 the aqilas of the two baits to which the parties belonged declared
695 that the decision should be made by the oath which Muftah had to
613
take if he insisted on his claims that the wound was not caused by
his action. Since the case involved the life of a man, Muftah had
to be supported in his oath by fifty-five adult male members of
[671] his 'amar, or 'eila. In accordance with the Daraieb, the selection
[778] was done by members of Selouma's Bait who also selected the tomb of
the saint where the oath would be undertaken. On the date the oath
was to be taken, the disputing parties, as well as all the notables
of friendly tribal segments who were invited to witness the oath,
went to the tomb of the saint. As they started with the procedures,
[784] two of Muftah's cousins who were to support him in the oath and his
uncle refused to swear on the grounds that they were not sure that
Muftah was telling the truth and therefore could not subject themselves
to the supernatural hazards of taking a false oath. Attempts
by other members who were to support Muftah were made to force the
three men to swear, since their refusal meant that the bloodmoney

683 682 672 695 613 was to be paid unconditionally and consequently would cost all members of the amar; but all these attempts failed. At this point, there was no doubt on the part of the attending crowd about Muftah's responsibility for the death of Selouma. The question was, how much had he to pay. The amount requested by Selouma's son was that for "intentional" killing on the basis that Muftah had willfully thrown the rock knowing that it might harm Selouma, especially considering his age.

683 682 672 627 After long and intensive negotiations with the interested parties, a Mi'ad was set in which it was announced that Muftah had to pay the amount of L.E. 200. In his reasoning, he stipulated that the wound which had caused the death of Selouma, although it was intentional on the part of Muftah, was inflicted by a stone which in itself is not a lethal weapon, and therefore the death was an unintentional one for which the bloodmoney is customarily estimated at L.E. 300. He also stated that in the excitement that [845] followed the death of Selouma, Muftah's pregnant wife had lost the child. The bloodmoney for the still-born infant was estimated at L.E. 100, which was deducted from the amount of bloodmoney that Muftah had to pay.

CASE #3: The Case of the Trespasser

311 423 613 [132] This case occurred during the year of the fieldwork which was the second dry year the area experienced. Rain had not fallen except in a very few places. One of these places was near the small town of Sidi Barrani in which the land belonging to Yadem and his Bait was found. Yadem had sown his barley which at that time had grown to about five feet high. Surrounding the cultivated land

311 was a large area of grazing land which also belonged to the Bait
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613 of Yadem. The area attracted a large number of tribesmen who
233 brought their herds for grazing. One of these was Kuraiem from
311 Awlad Kharouf tribal segment. He brought his wife and child and
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613 a herd of more than two hundred sheep and goats. Although it is
not proper for one to cultivate the land belonging to another
tribal segment, yet, when it comes to grazing land, no such restriction is imposed. Only the permission of the aqila of that
tribal segment is required, and even that is granted so automatically that many tribesmen do not bother to ask for such permission. Kuraiem took this permission for granted and pitched his
233 tent in the grazing land of Yadem and his Bait. Yadem, however,
311 was disturbed because he thought that Kuraiem grazed his flocks in
578 an area very close to his cultivated barley, so close that he feared
that the animals might eat the growing barley. When Yadem asked
Kuraiem to move a little further and Kuraiem refused, they entered
into an argument during which Yadem told him that if he did not
move by the following day, he would break his neck. The following
morning Yadem went with his brother to see if Kuraiem was still
there. Both Yadem and his brother were armed with heavy sticks.
As they reached Kuraiem's tent, they hit him with the sticks on
[682] the head. Kuraiem fell on the ground, and they kept hitting him
until he was dead.

682 In due course, Kuraiem's family claimed L.E. 400 bloodmoney
672 for the intentional killing of Kuraiem. Yadem and his family rejected the claim and insisted that the killing was unintentional. The
[627] Mi'ad was held, and the two Mardis selected by the two parties

682 agreed that the sticks were not by nature lethal weapons. The
672 latter, according to the tribal law, are only guns and knives,
627 since they give the victims no chance to defend himself. They
ruled the case unintentional killing for which only L.E. 300
should be paid.

682 Since Yadem and his brother were arrested by the police for
625 their crime, the payment of the bloodmoney was postponed until
692 the case was settled according to the state legal system. Only
half of the bloodmoney was paid and the rest was postponed until
the case was decided upon by the legal system and Yadem released.
682 This is obviously a case in which the nature of the killing was
672 decided upon by drawing upon the material aspect of criminal
673 causation. The nature of the weapon used was the major determinant
[411] of the crime. Only guns and knives are defined as lethal; all
others are non-lethal by nature, although they might cause the
death of the victim. Death caused by a non-lethal weapon is considered as unintentional regardless of whether or not the actor
intended the results, while death by a lethal weapon, even without
the intention of killing, is classified as intentional killing, as
appears in the following case.

CASE #4: The Case of the Threatened Tribesman

613 For more than five years Bait El-Mawi from the Sheibat tribe
628 had been in a continuous state of feud with Bait El-Asi from the
Gemeiat tribe. One night, during a Khamasein sand storm when visability was extremely low, Abd-el-Galil from Bait El-Mawi heard a
noise outside his tent, and the dogs were barking indicating that
a stranger was there. Being sure that someone was approaching

613 the tent and fearing that he might have been a member of the
628 feuding Bait intending to harm him or members of his family,
Galil took his gun and went outside to see who was there. He
called on the person to identify himself. When he got no answer,
he warned him that unless he identify himself, he (Galil) would
fire his gun in the air as a warning. After a short period of no
613 response, Galil fired his gun in the air. A moment later, Galil
628 heard a cry coming from the direction of a small hill at the side
682 of the tent. When Galil went there, he found Salem, a member of
a neighboring camp, lying on the ground with a bullet wound in his
stomach. He told Galil that his wife was sick and that he had
come to borrow Galil's donkey to take her to the doctor in the
nearby medical center. He had taken the short cut to Galil's tent
when he was hit by the bullet which Galil had fired in the air.
Galil took his wounded neighbor to the medical center, but Salem
died before they reached it.

682 The Mi'ad was held, and Galil and his family had to pay L.E. 400
672 to the victim's kin group. The amount was that specified for in-
627 tentional killing, since the wound that caused the death was in-
673 flicted by a lethal weapon.

CASE #5: The Case of the Startled Shepherd

233 This case involves Idris, a poor member of the Sheresat tribal
[464] segment. He earned his living by working as a hired shepherd for
[519] 'Awwad from Bait Ibrahim in the area of Gharbaniat. During the dry
[312] season, each shepherd takes his flocks to the water wells near the
coast and leaves them there for three or four hours to get their
fill of drinking water. That afternoon, Idris, waiting for the

233 animals to drink, sat on the edge of the well with his feet in the
cool water of the pool completely absorbed in his thoughts amidst
233 the quiet surroundings. Passing by the pool at that time was Mahdi
576 from a neighboring tribal segment. Seeing Idris (whom he had not
165 known), he shouted the customary greeting, "Peace on you." Startled
by the voice of Mahdi, Idris lost his balance and fell in the deep
water of the pool. Mahdi rushed to help him, but the water was too
deep, and Idris drowned. Feeling sorry for Idris, Mahdi took the
flock and went back to the camp of Idris where he informed the
682 latter's wife of what had happened. A few days later, Mahdi was
627 paid a visit by Sheikh Elewa, the aqila of Bait Asabei' and known
[613] mardi in the area who informed Mahdi that the family of Idris was
demanding the payment of the sum of L.E. 300 for the death of their
682 relative. A Mi'ad was set for the following week. In that Mi'ad,
627 and after Mahdi admitted that it was his greeting that had startled
672 Idris and caused him to fall in the well, the two Mardis represent-
613 ing the two parties agreed that the payment of the sum of three
hundred pounds was in order and that Mahdi and his amar must pay it
to the victim's family as soon as possible. At first, Mahdi seemed
to accept the judgment of the two Mardis, especially when both were
prominant members of some of the influential tribal segments in the
area. But Mahdi was a poor man, and his amar was very small in number, which made the payment of the bloodmoney almost impossible.
682 Although appeal in the ordinary legal sense does not exist in such
627 a system like that of Awlad Ali, where no judgment is forced upon
672 any of the disputing parties, and where the pronouncement of the
695

682 settlement is usually made after the parties have agreed to it,
627 yet, in certain instances where one of the parties later feels that
672 the settlement was not just or that he was coerced into accepting
695 it, he may ask for a second Mi'ad during which new procedures start
in the case. In the present case, although Mahdi had originally
accepted the judgment of the awaqil, as time passed and he real-
ized that he was unable to pay the bloodmoney, he started to ques-
682 tion the feasibility of the settlement. He discussed the matter
672 with Sheikh Suliman el-Gerery from the Murabiteen tribe of Gerera,
695 a tribe whose members are feared throughout the area for the belief
554 that they have certain supernatural powers. Sheikh Suliman himself
792 [776] is highly respected, and people believe that after his death he will
become "wali" or a saint. After hearing Mahdi's complaint, Sheikh
Suliman told him that the settlement was unjust and told him that he
would do something about it. The following Thursday, Sheikh Suliman
called on Mahdi and asked him to bring his donkey and follow him.
They rode to a small desert town called Bahig where the local market
613 is held every Thursday. On market day, the awaqil of various tribal
517 segments usually gather in front of the general store in the town
571 drinking tea and chatting until their sons or the younger members
443 576 of their families sell the sheep and buy the necessary items. Every-
one passing by the gathering is expected to greet the gathering, get-
ting off his donkey as a sign of respect to the prominent people.
[589] Failure to greet a fellow tribesman is considered a serious offense
liable to a fine of more than L. 50 and ten goats in certain cases.
[673] It is considered a very serious crime. One informant once told me,
000

124 One informant once told me,
576 "If you don't greet me, this means that you hate me, and if you
829 hate me, there is no limit to the kind of harm you can do me and
my family. One who hates you can kill you, and none can walk safely anywhere if he fears that he will be killed."

682 As Sheikh Suliman and Mahdi reached the general store, everyone
689 was gathering there as usual, including the two awaqil who
672 were involved in the original settlement. Sheikh Suliman told
695 Mahdi not to dismount his donkey and not to say the customary
554 greeting as they passed by the gathering. When they passed the
792 gathering, everyone stood to greet Sheikh Suliman who ignored them
576 and left with Mahdi. No one believed that Sheikh Suliman, who should be the guard of the tribal tradition, should commit such an unforgivable violation of the norms of the people. The next morning
682 the whole area was talking about a big Mi'ad to "take the right"
689 from Sheikh Suliman and Mahdi, who had insulted the gathering. The
672 Mi'ad was held a week after the incident. During the Mi'ad, Sheikh
695 Suliman was asked to explain his behavior, and his answer was, "How
554 do you want me to greet all those people who were sitting in front
792 of the store? There were more than thirty men in that gathering,
576 and I was afraid that if I said the customary greeting, I might
627 have startled some of them causing them to harm themselves, leaving me with the payment of so many bloodmoneys." Immediately, the attendants of the Mi'ad knew what Sheikh Suliman was referring to, and that his action was to prove that the settlement reached in the case of Mahdi was wrong and that it set a very dangerous precedent which would cause people to avoid greeting one another, "and hatred will prevail among brothers and nobody will be safe in his own home."

000 own home." The following morning a Mi'ad was called for by the two
627 aqila who achieved the first settlement, and in it, Mahdi was re-
613 leased from his obligation to pay the bloodmoney, although he was
682 asked to pay the sum of fifty pounds to the widow of the deceased
695 as a gesture of friendship.

CASE #6: The Case of the Careless Guest

574 682 The present case involved Ali from the Geneishat tribe who lives in the desert town of Matruh where he has a general store. He goes on frequent visits to Alexandria to get supplies for his store. On one of these trips he passed by the camp of 'Awad from a different tribal segment. Hungry and tired, Ali decided to spend the night at the camp and continue his trip the following morning. He went to the first tent in the camp which happened to be that of 'Awad, who welcomed him and ordered his wife to prepare dinner for the guest. He then invited other members of the camp to have tea with the guest as a gesture of hospitality. When Ali sat down to eat, he took off his shoes, and put his rifle against a pile of rugs and blankets behind him. As the group was chatting, a goat belonging to one of the invited neighbors entered the tent where the men were sitting. Afraid that it might soil the carpets which he had put out for the guest, Awad chased the goat out of the tent. On its way out, the goat touched the guest's gun which fired, killing Hussein, the brother-in-law of one of the neighbors.

682 627 The local authorities were notified of the incident, but after conducting a preliminary investigation, they filed the case as accidental death. The tribal proceedings continued, however. After

682 627 negotiations between the parties involved were conducted by their
respective awaqil, a Mi'ad was set, and the settlement was announced.
682 672 627 According to the terms of the settlement, three factors
contributed to the death of Hussein: the goat, whose activity was
directly related to the death by causing the gun to fire; the host,
who had chased the goat, causing it to run over the gun and fire it;
and the guest, without whose negligence in leaving the gun loaded
the accident would not have happened. The bloodmoney was divided
into three equal parts, one of which was to be paid by Awad, the
host, the other to be paid by Ali, the owner of the gun, and the
third part to be attributed to the responsibility of the goat and
therefore would not be paid.

CASE #7: The Case of the Adulterous Wife

684 For more than a year, rumors spread in the area of Burg El-Arab
that Ghenewa's wife was having an affair with Goma'h, a friend of
her husband and a member of a nearby camp. Ghenewa was operating a
small store and was also involved in smuggling goods from Libya; both
required him to be away frequently and for fairly extensive periods
of time. According to the rumors, as soon as he left, his wife
would put a white cloth on the laundry line as a sign indicating
to Goma'h that the husband had left and therefore the former could
come and visit her. When the husband heard the rumors, he was furious
and decided to test his wife. He pretended that he was going to
Alexandria as usual, went to the train station, waited until the train
had left, and then returned to his tent. As he entered the tent, he
found his wife and his friend in a compromising situation. Before
[682] he could do anything, the friend grabbed a kitchen knife and attacked

684 682 the husband, who reached for his gun and fired at Goma'h. Three
days later the latter died in the hospital from the gun wound.

684 682 672 The case was investigated by the police and brought to trial,
but the case was dismissed as justifiable homocide by reason of
self defense. The tribal proceedings, however, required Ghenewa
to pay the bloodmoney for intentional homocide, since the weapon
used was a gun. Out of the L. 400 bloodmoney, the sum of L. 20
kabara for committing adultery with the wife was deducted. None
had questioned the right of Ghenewa to kill Goma'h in the process
of defending himself.

671 In his essay on "The Early History of Malice Aforethought" in
672 English law, Maitland discussed the "utter incompetence of ancient law
to take note of the mental elements of a crime" (1911:327). This statement seems to apply to certain aspects of the tribal law of Awlad Ali.
If one causes the death of another, even accidentally, he is liable to
671 compensation. This attribute is not restricted to Awlad Ali law, for
672 it has been documented by a number of other studies. Peristiany found
171 this to be the case among the Potok (1954), and Dundas documented it
among the Kikuyu (1921). In his analysis of injury and liability among
the Barotse, Gluckman maintained that "whatever the motivation of the
killer or the circumstances surrounding the deed, bloodmoney has to be
paid if a member of one grouping of kinsmen was killed by a member of
some other group. The mental element seems to be irrelevant. What is
important is that "murder" is committed within social relationships
where blood compensation is due (1963:205). Similarly, Howell gives us
one of the most comprehensive accounts of the Nuer "rule of law" and

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672
171 the irrelevance of intention in establishing liabilities for homocide or injuries (1954).

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682 The neglect of intention in assessing liability in cases of homocide is evident in the cases presented above (Cases 1,2,4,5 and 6), where compensation was paid although there was no intention established on the part of the offender.

[192] Awlad Ali use the Arabic word "katl" to refer to any killing. This is different from the word "mut" which means death by natural causes. They further differentiate between "katl 'amd," or intentional killing

682 and "katl khata," or unintentional killing. Although reference here is
672 made to "intention," yet, from the above cases it is evident that the
673 basis of establishing that intention is from the type of weapon used in effecting the death of the victim. Intentional killings are those caused
[411] by a lethal weapon. Lethal weapons are defined as guns or knives. Death caused by a non-lethal weapon, no matter what the intentions of the offender, is defined as non-intentional, even when the circumstances of the act indicates the actual existence of an intention on the part of the offender to cause the death of the victim (as in Case #3 above). The assumption is that the use of lethal weapons, such as daggers or guns, implies intention and possibly a certain degree of premeditation, since these weapons have no other important use. Moreover, the probability of death by a lethal weapon is much greater than from other non-lethal weapons. These give the victim a chance to defend himself, a chance which he does not have in the cases of killing with a gun or dagger. In other words, Awlad Ali, in assessing responsibility for homocide, "operate with a legalistic psychology in which intention is is presumed from action" (Gluckman, 1963:207).

682 In practice, Awlad Ali do look at actual circumstances to assess
672 the intention of the offender. Although compensation is always required, the readiness of the victim's kin group to accept a financial settlement and the final amount to be paid in a given situation is affected by the presence or absence of an intention on behalf of the offender. In assessing the actual intention of the offender in each case, the mediators rely on the circumstances of the crime as well as on the past history of the relationships between the offender and the victim. Although this actual intention of the offender does not change the payment of bloodmoney, the deceased's kin are more agreeable to the acceptance of the financial settlement if the killing is unintentional than if it is intentional and the possibility of revenge is much less imminent. Unintentional killing, regardless of the weapon used never results in blood feuds. The possibility, on the other hand, is much greater in the cases where the circumstances of the offense indicate an intention on the part of the killer to take the life of the victim. It is for this reason that the right of
[978] nazala, or refuge, discussed in an earlier chapter, is resorted to only in the case of intentional killing. Of all the cases described in the chapter only in the case of the trespasser did the killers' kin group seek refuge by moving to another area where they were protected until the dispute was solved by another neutral tribal segment. It is important to note that killing in the above case was not done by a lethal weapon but by sticks, and as such was defined by the tribal law as "unintentional" as far as the formal amount of compensation required was concerned. Not all cases where the intention of the offender to kill
[671] the victim is clear carried with it the threat of revenge. The tribal law takes into consideration certain mitigating circumstances, such as the role of the victim in initiating the act of the offender.

600 the role of the victim in initiating the act of the offender. In the
684 682 case of the adulterous wife (Case #7), the intention of the husband to
672 kill the wife's lover was clear from the evidence; yet, the husband's
kin group never attempted to take refuge, and the victim's group was
eager to settle the case with the least amount of publicity. On the
682 672 other hand, killing in circumstances that offend the tribal standards
183 of chivalry, like killing from ambush or during the night, are the most
difficult to solve and pose the greatest chance for retaliation.

682 Although the traditional amount of compensation is not determined
672 by the actual intentions of the killer, but rather by assumed intentions
[673] as deducted from the type of weapon used in causing death, yet, the final
amount paid is usually determined by such intention. The actual intention works as the basis for bargaining between the victim's kin and the kin of the killer. Kin of the victim of an intentional killing are less likely to agree to any reduction of the amount, and with the threat of retaliation or revenge present, the killer's kin are bargaining from a weaker point. This is not the case in unintentional killings or where the victim's behavior instigated the reaction of the killer. In such cases, the victim's group is more willing to accept a lesser amount of compensation, and the killer's group, while not in a good bargaining position, at least are not under the threat of revenge. And since they do not resort to the right of refuge, their daily activities are not disrupted. In this case, they could sustain the bargaining activities for a relatively longer period of time. Also, there is usually a strong
[626] pressure on the victim's group to accept reduced compensation in the
case of unintentional killing from the rest of the tribal members. If

682 they refuse to accept reduced compensation, they are viewed as unreason-
672 able by the rest of the groups in the area. One way in which such pres-
[626] sure is brought to bear upon the victim's acceptance of reduced compansation
682 is in the mi'ad, or the public hearing, in which the settlement achieved
672
627 is announced. The common practice is for the killer's group to agree to pay the full amount specified by the traditional scale for compensation (L.E. 400 for killing with a lethal weapon and L.E. 300 for killing with a non-lethal weapon). Then, in the final mi'ad in which such agreement is achieved, a number of important members of non-involved tribal segments are invited to the mi'ad. During the mi'ad and immediately following the announcement that a settlement has been achieved and that the kin group of the killer has agreed to pay the traditional bloodmoney, the mardi or any one of the attendants to the mi'ad asks the victim's group to defer part of the payment in honor of important members of the tribal segments pres-
682 ent at the meeting. Sometimes a portion of the payment is forfeited in
672 honor of the tent or the women of the household who prepared the food or even for the blessing of one of the saints in the area. In the case of the curious neighbor (Case #2) above, out of the original amount specified for the death by non-lethal weapon estimated as L.E. 300, only L.E. 100 was actually given to the victim's kin group. In addition to the L.E. 100 deducted because of the death of the unborn infant of the offender, another hundred pounds was deducted in honor of certain important members
[683] who attended the gathering. It is interesting to note that the L.E. 100 is compensation for the loss of the use of a leg in the formal scale of compensations for injuries as will be shown shortly. No such reduction in the amount of bloodmoney was done in the case of the trespasser where

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Although the weapon used was not lethal and therefore was classified as an unintentional killing, yet the nature of the crime and the obvious intention on the part of the killers made reduced payment difficult to achieve.

Another way of reducing liability and the amount of money paid in cases of unintentional killing is by taking into consideration all the intervening variables that contributed to the death of the victim and asking them to share the blame. The working of this principle is illustrated in the case of the broken rope where the rope was assigned half the responsibility for the death of the victim. It is also present in the case of the careless guest where the responsibility was divided three ways with the host paying one third, the owner of the gun paying another third, and the goat sharing the responsibility for the rest of the bloodmoney. It is interesting to note the difference in the responsibility to the owner of the gun in the above case and the owner of the rope in the case of the broken rope. The owner of the rope was not held responsible for the death caused by his rope, the same way the owner of the goat in the case of the careless guest was not held responsible for the actions of the animal. Both the goat and the rope are not dangerous things by themselves for which a certain degree of care in handling is required. If such normally harmless things cause injury or death to a person, the owner is not held responsible.

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The situation is quite different in the case of the gun and the responsibility of its owner. By nature, the gun is a weapon of death, and for that reason the tribal law has required certain precautions in its use or handling. Among such precautions is the requirement that a guest,

682 as soon as he settles in the host's place, should unload the gun. In
672 411 addition to reducing the possibility of the gun being accidentally fired
671 and harming someone, this act expressed the trust of the guest in his
594 host and signifies the ability of the latter to protect his guest against
any harm. A person visiting another does not need his gun for protection
682 and therefore must unload it. If the owner of the gun fails to take this
672 customary precaution and leaves his gun loaded, and because of that fail-
411 ure the gun causes the death or injury of a person or even damage to prop-
erty, the owner is held responsible for that result. The same rule applies
to other deadly weapons, such as knives or daggers, as well as to animals
683 which are dangerous by nature, such as dogs. Each tent in the area has a
672 231 dog. Starting the first weeks in the puppy's life, he is trained to
guard the tent and to bark at the approach of any stranger. It is also
trained to attack any intruder who comes within fifty yards of the tent
unless accompanied by a member of the tent. When one goes to visit an-
other, he usually stays away from the tent until someone from the tent
hears the dog barking and comes out to get the guest. Most dogs would
not attack a person as long as he is the safe fifty yards away from the
tent. Occasionally, a dog goes behond the safe distance and b ites an
individual passing by or a guest waiting to be let inside the tent. If
the injured person is able to prove, usually by taking the oath, that
he was more than fifty yards away from the tent at the time he was at-
tacked by the dog, the dog's owner is liable to the victim for the in-
jury inflicted by the dog. If, on the other hand, evidence shows that
the victim was bitten by the dog while being less than fifty yards away
from the tent, then there is no responsibility on the part of the dog's

683 owner. This means that an element of neglect has to be proven on the part
672 of the owner of either a lethal weapon or a dangerous animal before he
231 is held responsible for the fdamage they cause. But whether dangerous or not, the role of such objects or animals, in causing the death or injury of the victim, is taken into consideration in assessing the exact amount to be paid as compensation.

682 In assessing the intention and consequently the amount of the tradi-
672 tional bloodmoney to be paid, the behavior of the offender is judged according to a traditional standard of reasonableness. In the case of the curious neighbor, Muftah, in his attempt to evade the payment of the full bloodmoney, presented an elaborate account of his neighbor's actions including the provocative statements that the latter had said, the jokes, and even the insults he had directed against Muftah. His attempt was to show that throwing a small rock at his neighbor was not an unreasonable behavior considering the provocations of that neighbor whose behavior was itself unreasonable. Although the victim's behavior was unreasonable, the response of Muftah to the provocations of his neighbor was also considered as unreasonable. He could have followed the traditional means of asking a third party to interfere and prevent the neighbor from continuing his insults. Instead, Muftah took the direct and unreasonable response which eventually led to the death of Selouma. It is that element of reasonableness that led to the reversal of the original settle-
682 ment in the case of the startled shepherd (Case #4). When considering
672 a certain behavior in the context of reasonableness, the mediators draw
627 not only upon the immediate facts of the case under consideration, but also upon the careful inquiry into the long history of interrelations

682 672 627 between the parties involved. The relative position of both the offender and the victim and their relationship to one another is taken into account. What is reasonable behavior in one case may not be so in another. Past disputes are taken as indications of the present situation, although they may not be directly related to the present dispute.

672 673 It is possible to say, then, that Awlad Ali recognize two types of intentions: an assumed intention deducted from certain material aspects of the act itself, like the type of weapon used in causing the death of the victim, and an actual intention which is quite similar to that utilized in modern jurisprudence in the sense that it pertains to a state of mind on the part of the offender that connects him in a special way with the prohibited results. The assumed intention works to set the initial guide for the traditional scale of bloodmoney. It sets the basis upon which compromise could be achieved. Actual intention, on the other hand, determines the actual course the specific case takes as well as the final amount of money paid as a settlement.

Part 2: Bodily Injuries

683 Awlad Ali recognize compensation for all sorts of bodily injuries sustained intentionally or accidentally. An elaborate scale of compensations is set as a basis for compromise. The basic principle involved is that an injury should be met by compensation in direct ratio to its severity, and the severity is assessed by the extent of a man's disability. Disability, in turn, is measured by the extent to which a man is prevented from participating in the communal activities which enable him to defend and maintain himself and his family according to the customary standards they are used to. It is a collective, as well as an individual, concern. A head injury or an injury to the hand may amount to a very serious defect if the person is unable to cultivate the barley fields or move with the herds for grazing or holding a gun to defend his family and group against an intruder who intends to do him harm. Death is considered the maximum disability, as are other injuries that take the person totally out of the collective activities, as in the case of injury
683 resulting in paralysis or blindness. All other injuries are compensated
435 by a fraction of the bloodmoney for homicide or L.E. 400.

Scale of Compensation for Bodily Injuries

El damiah Sughra (a small wound which does not cut the skin)	L. 3
El damiah kubrah (a small wound which cuts the skin)	L. 6
El fakhera (a wound which cuts the skin and reaches the flesh under it)	L. 12
El badi'a (a wound which cuts the flesh on both sides)	L. 25
El mutifah (severe cuts to the flesh)	L. 30

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El malta (a wound which cuts the skin and flesh and reaches the fat next to the bone)	L. 35
El muwadiha (a wound which cuts the skin, the flesh and the fat next to the bone and leaves the latter exposed)	L. 50
El hashima (skull fracture)	L. 100
El munkala (a head injury in which a piece of skull is removed)	L. 150
El maimuma (a head wound that causes permanent brain damage)	L. 400
Damage to the head hair:	
if permanently damaged	L. 100
if grew back without damage	L. 20
(The above rule applies to the hair of the beard, mustache and eyelashes.)	
Fracture of the hand: for each finger	L. 50
Fracture of the arm: for each bone	L. 50
Fracture of the leg: for each bone	L. 100
Broken ribs (unspecified number)	L. 100
Fracture of the foot	L. 100
Paralysis or severance of the fingers: each joint (except those of the thumb)	L. 33
Paralysis or severance of the thumb: each joint	L. 50
Loss of two ears	L. 400
Loss of one ear	L. 200

If hearing is impared, the defect is measured in relationship to the total utility of the ears, and compensation is estimated accordingly.

Complete loss of the eyesight	L. 400

Partial loss: to be assessed in proportion of that loss to the total utility.

Nose: if totally cut off	L. 400
Piercing the nostrils	L. 100

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If the two lips are cut off:	L. 400
just the lower lip	L. 300
just the upper lip	L. 200
Visible piercing of the lips	L. 50
The tongue: if results in total loss of speech	L. 400
Partial loss of speech is measured in proportion to that total loss.	
All the teeth	L. 400
Each tooth	L. 50
Testicles: if cut off	L. 400
The entire genitals	L. 800
The breasts:	
of a nubile woman	L. 200
of an old woman	L. 100

683 As in the case of homicide, the above scale of compensation works
only as a basis for compromise rather than as a definite or exact fine.
683 To assess the amount of injury and therefore the category of compensation,
629 the victim and his group, as well as a representative of the offender,
463 have to take the injured person to the "nazzar" who examines him and de-
fines the kind of injury sustained. The nazzar is usually a member of
[619] one of the Murabiteen tribes who is known to possess a number of shari's
books specifying the injuries and the amount of compensation required in
each case. Before he assesses the wounds, both parties have to swear that
[465] they will accept his judgment, and they pay him a token fee that varies
according to the ability to pay and the position of the parties involved.
683 The amount of money estimated by the nazzar is not necessarily the final
amount of money paid. For, as in the case of homicide, it is subject to
deductions in honor of various members who attend the meeting in which

683 the settlement is announced. This deduction is determined by the same
683 factors involved in the case of homicide, such as the relationship between
672 the parties involved and the presence or absence of an intention
on the part of the offender to cause bodily harm to the victim, as well
as the role the victim played in provoking the actions that led to his
683 injury. Injuries sustained during a fight are not as serious as injuries
672 sustained by ambushing the victim. In the latter case, the victim
673 had no chance to defend himself. Also, the number of people involved in
the actions that led to the injury enter as a variable. If more than one
individual attacks a victim, it is considered more serious than a man-to-man fight.

105 The judicial process among Awlad Ali of the Western Desert of
Egypt has been dealt with in the context of political organization of
105 the group. The main feature of the political organization of Awlad Ali
613 is the absence of centralized leadership. The only formally recognized
leadership is that of the aqila, the leader of the bait tribal segment.
105 The sources of the aqila's authority derive from a number of sources,
613 one of which is his judicial role. It is through him that disputes in-
627 volving members of his bait are solved. The process by which he per-
forms this crucial function is that of informal mediation in which both
the personal qualities of the aqila, as well as the weight of his tribal
[692] segment, play an important role. This is especially important in a so-
ciety with no court system or formal hearing and where durability of any
settlement depends on its being accepted by the parties involved.

105 The main aim of the judicial process is to affect reconciliation of
182 the parties and to restore a certain degree of social order and cohesion
627 that was disrupted by the dispute. The need to restore the social order
[819] and to maintain friendly relations between tribal members is a response
to certain aspects of the natural and social environment in which the
105 group finds itself. Natural resources in the area are very meager, and
182 subsistence activities require that the tribesmen constantly move with
619 their herds for pasture throughout an area already divided among the
233 various tribal segments. Since the place and nature of pasture differ
from one year to the next, the identity of the specific tribal unit which
would be sought for help varies correspondingly. This creates a general
feeling of dependency that characterizes the social relations in the area.

105 On the other hand, there is always a feeling of rivalry and hostility
598 between the different tribal segments which goes back to the era of
571 tribal warfare. Thus, the social relations among the tribal population
are characterized by a certain amount of ambivalence which is hidden be-
hind a facade of formality in the way tribal members treat one another
105 in day-to-day activities. There are certain rules of etiquette describ-
571 ing the way members of the same tribal segment should behave toward one
576 another and toward other tribesmen and outsiders. Failure to abide by
[589] these rules may subject the violator to a symbolic fine of a goat or a
[574] sheep slaughtered for a feast to which everyone is invited. These feasts,
[182] or dinners as they are called, have various functions, the most important
105 of which is the integrative one. In an area where the population is usu-
571 ally dispersed, these dinners offer an opportunity to the tribesmen who
574 happen to be in the area at the time of the feast to attend, where they
182 eat, meet other tribesmen, and exchange information about what is happen-
ing in other parts of the area. It is from such dinners that the tribes-
men get to know about the available pastures, about the prices of sheep
and goats in different markets, and about who is doing what and where.
The occasion also signifies the restoration of the violator of the rules
to the social life of the group and the reinforcement of those rules.
105 This is also true with the tribal meetings, or mi'ad, which are held to
627 announce settlements in more serious cases. It is on this basis that
182 [illegible] the mi'ad should not be considered as a tribal court. It is more of a
[574] social occasion where food and drinks are served and where parties in-
volved and all those invited by them talk about everything except the
[589] dispute itself. In certain instances, the financial settlement agreed
upon in the informal mediation is exaggerated when announced in the mi'ad

105 so that part of it may be reduced in honor of some prominent members
627 who are attending the meeting. When part of the financial agreement is
182 reduced in honor of a person, this creates an obligation on the part of
681 that person to reciprocate in a similar situation when one arises. This
554 creates an active interest in the settlement on the part of individuals
who otherwise are not involved, and insures the durability of the settlement. The social cohesion is maintained.

105 The need to keep friendly relations with all tribesmen is reflected
571 in the judicial process in its procedural aspect, as well as in judicial
578 reasoning, that is, the logic according to which facts in certain cases
627 are assessed. With regard to procedures, there is an emphasis on avoid-
182 ing face-to-face confrontations between the disputing parties until an agreement has been reached by means of the mediators. Only then is it that the parties see and talk to one another. This is especially true in serious cases such as homicide or serious assault where face-to-face confrontation is likely to lead to more hostilities.

105 The emphasis on reconciliation may explain, at least in part, the in-
571 formality of the judicial process. Leaving the process of dispute settle-
627 ment informal gives it a measure of flexibility which permits the treatment
182 of each case as unique without being tied down by rigid formal rules. This does not mean, however, that there are no rules to be followed, or that there is no place for legal precedents. It simply means that the rules are very general and that the legal precedents are used merely as a guide in solving similar cases. The main guide remains, however, the desire to achieve a successful settlement that satisfies all parties. It is only through achieving such successful settlements that the social order is maintained and the tribal cohesion is secured.

APPENDEX I

GLOSSARY OF ARABIC TERMS USED

104
601

Abb	أب	father
'acd	عقد	contract
Akh	أخ	brother
'amar el dam	عمار الدم	unity of blood (vengeance group)
'amd	عمد	intention
'amm	عم	father's brother
'aqila	عاقلة	wise man; leader of a bait
bait	بيت	house
bait el shan'a	بيت الشنعة	house of the dreadful deed
baraka	بركة	blessing
barawa	براوة	to ostracize from membership in a particular group
bint	بنت	daughter
bint 'amm	[illegible] عم	father's brother's daughter
bint haram	بنت حرام	illegitimate girl
beer sama	بير سما	sky well
diyya	دية	bloodmoney
daraieb	درايب	the tribal laws and customs
'eila	عيلة	family
el-fatha	الفاتحة	the beginning chapter of the Koran; the initial ceremony in the marriage
feddan	فدان	acre
ghish	غش	cheating, or unfair deal
ibn	ابن	son
ibn 'amm	ابن عم	father's brother's son
iktitab	اكتتاب	tribal adoption

104 jad	جد	grandfather
[601] jaddah	جدة	grandmother
kabara	كبارة	face-saving compensation
kabila	قبيلة	tribe
katl	قتل	killing
khata'	خطأ	by accident
kishk	كشك	dried milk
[601] khal	خال	mother's brother
Koran	قرآن	the Islamic sacred book
mahr	مهر	bridewealth
mardi	مرضي	go-between
maleh	مالح	sour milk
mi'ad	ميعاد	tribal hearing
murabiteen (sing., murabit)	مرابطين (مرابط)	holymen, client tribes
Mustagilleen	مستقلين	independent tribes
nagei'	نجع	camp
nazala	نزالة	refuge
[illegible]azzar	نظار	one who assesses the amount of compensation for wounds and bodily injuries
nasafa	نصفة	compensation for a wife
omda	عمدة	a government appointed tribal leader
sayem	صايم	a male who fasts the month of Ramadan, an adult
sadaqa	صدقة	obligatory tribute
sa'adi	سعادي	the original tribes of Awlad Ali
sheikh	شيخ	any tribal leader, or an old man

104 sura	سورة	a chapter in the Koran
Shei'a	شيعة	the unorthodox sector of Muslim practices
Sunni	سنّى	the orthodox Muslim group
shar	شر	evil
thebeiha	ذبيحة	a sacrifice
[601] ukht	أخت	sister
umm	أم	mother
watan	وطن	homeland
wakil	وكيل	a legal guardian
zawya	زاوية	a religious center
zena	زنا	adultry

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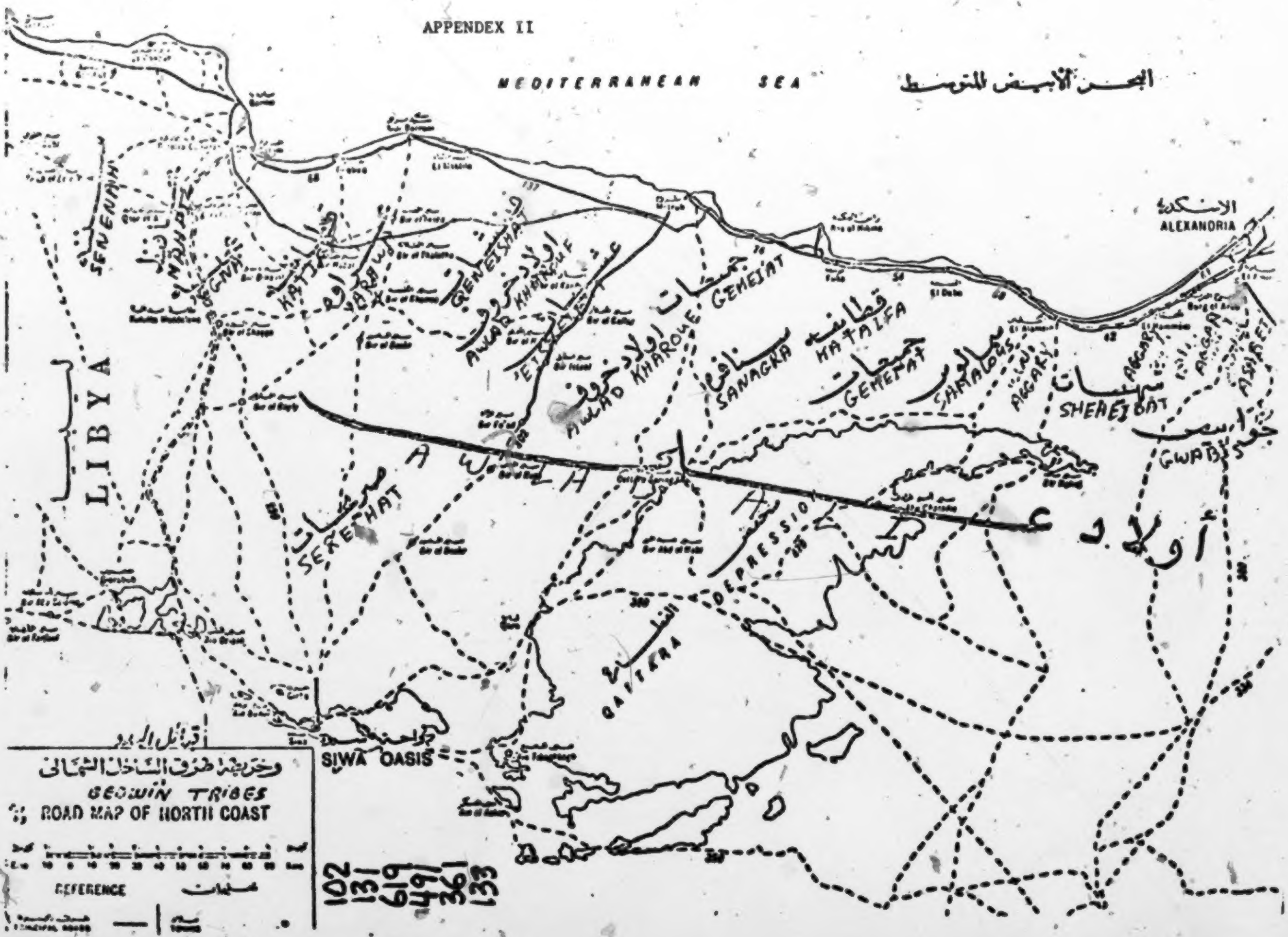
APPENDEX II


MEDITERRANEAN SEA
البحر الأبيض المتوسط
الإسكندرية
ALEXANDRIA
LIBYA
ليبيا
SENENNH
NAHDIE
JEGNAN
KATTA
YARAWA
GENEISHA
أولاد خروف
AWLAD KHAROUF
ETAYZAT
جميعات
GEMEIAT
أولاد خروف
AWLAD KHAROUF
سناقرة
SANAGRA
قطيفة
HATAIFA
جميعات
GEMEIAT
سمالوس
SAMALOUS
AGGARY
شهيبات
SHEHEIBAT
AGGARY
AGGARY
ASHBEIT
جوابيس
GWABIS
سراحات
SERAHAT
AWLAD ALI
أولاد علي
QATTARA DEPRESSION
القطارة
SIWA OASIS
قبائل البدو
وخريطة طرق الساحل الشمالي
BEDWIN TRIBES
ROAD MAP OF NORTH COAST
REFERENCE
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2: Mohsen E.O-5 (1958-1966) 1971 MT9 Libyan Bedouin MT9
Awlad Ali

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[Information on the relationship of the omda and shaikh in their respective roles as district representatives of tribal segments to the Egyptian government will be found in Category 657.]

[For information on the marabtin or "client tribes," see Category 619.]

[For information on the adwar or guerrilla bands which functioned as a military unit in the Italo-Sanusi wars, see Category 701.]

[For information on the warfare of the Sanusi, particularly in reference to the Italian-Sanusi wars, see Category 648.]

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[For information on the political role of the omda (umda) as a representative of the more powerful and numerous tribal segments within an administrative district, see Category 634.]

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[For the role of the marabouts as arbitrators in the settling of disputes between tribal groups, see Categories 619 and 792.]

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[For information on the Bedouin concept of laf in which a stranger group, sometimes of "client tribe" origin, attaches itself to the dominant clan in an area, and through some fiction, myth or fraud grafts their branch of descent on to the genealogical tree of this clan, see Categories 608 and 619.]

[For additional information on tribal "adoption" wherein peasant groups or even individuals were incorporated into the tribal organization under the Bedouin term iktitab, see Categories 563 and 619. For information on laf, the term used to describe the process in which groups graft themselves onto the genealogical tree of a tribe, see Categories 608 and 619.]

[For information on the *barawwa*, the act of banishing from the group, as a form of legal document, see Categories 675 and 681.]

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[For general information on the functional role and status of the shaikh (or shaikhs), see Category 554; for specific information on their political functions as representatives of district tribal segments, see Category 634; for information on their roles as heads of their respective kin groups, see pertinent 61 Categories; information on their roles as religious leaders will be found in Category 793.]

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[Information on the Grand Sanusi of the Bedouin of Cyrenaica, religious head of the Sanusiya Order, will be found in Category 793.]

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[For general information on the payment of blood-money in retribution for homicide, see Category 682.]

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[For information on the role of the Arab "elite," groups of townsmen from Banghazi and Darna of mixed ethnic backgrounds, who functioned as administrators under Italian rule, see Category 563.]

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[For information on the establishment of schools and medical clinics in Libya by the Italian government for the benefit of the Bedouins, see Categories 175 and 648.]

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[For information on the omda, the administrative head of the rural village, see Category 622.]

[For information on informalized mechanisms for adjusting and applying sanctions within the community and between communities, see Categories 627 and 628.]